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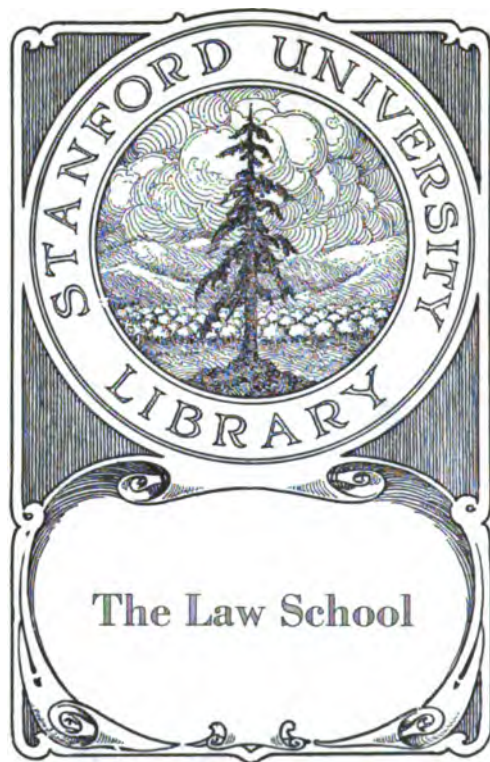
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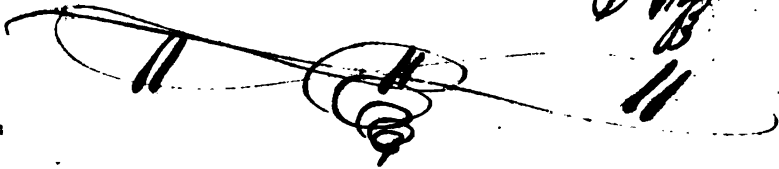
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Wentworth 1841

P. O. M. Hume Esqr

Columbiana J. P.



Handwritten text, possibly a signature or a list of names, written in a cursive script. The text is arranged in two main lines, with some additional markings below. The first line appears to contain several names or words, possibly "John", "James", "William", "Robert", "Thomas", "George", "Charles", "Edward", "Henry", "Richard", "John", "James", "William", "Robert", "Thomas", "George", "Charles", "Edward", "Henry", "Richard". The second line contains more names or words, possibly "John", "James", "William", "Robert", "Thomas", "George", "Charles", "Edward", "Henry", "Richard". There are also some additional markings below the main lines, possibly "John", "James", "William", "Robert", "Thomas", "George", "Charles", "Edward", "Henry", "Richard".

ACTS

OF

THE GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF KENTUCKY,

PASSED AT

NOVEMBER SESSION, 1851.

PUBLISHED BY AUTHORITY.

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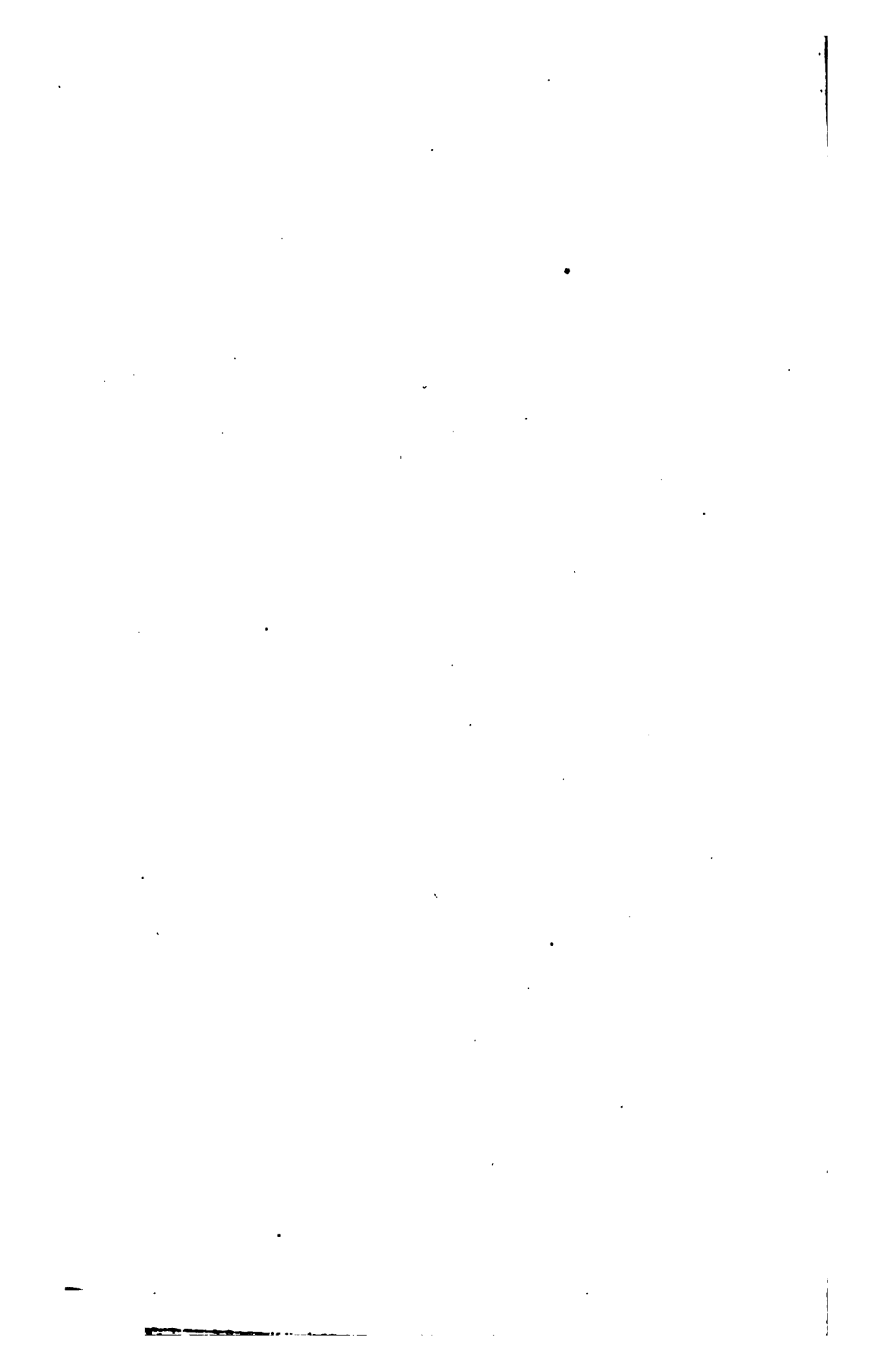
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LAWS OF KENTUCKY.

PASSED AT NOVEMBER SESSION, 1851.

LAZARUS W. POWELL, GOVERNOR; JOHN B. THOMPSON, LIEUT. GOVERNOR AND SPEAKER OF THE SENATE; GEORGE ROBERTSON, SPEAKER OF THE HOUSE OF REPRESENTATIVES; DAVID MERIWETHER, SECRETARY OF STATE.

GENERAL LAWS.

CHAPTER 1.

AN ACT authorizing a special term of the Woodford Circuit Court.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky;* That the judge of the eleventh district be and is hereby authorized to hold a special term of the Woodford circuit court the second Monday of the present month, for the trial of criminal cases, and all cases at common law or in chancery in said court; and said judge is to proceed in the same manner as if said court had been held the first Monday of September last.

Special term
to be held.

§ 2. That all process that has issued, or may hereafter issue from the clerk's office of said circuit court, returnable to the second Monday of November, 1851, shall be as valid as if they had been issued returnable to a term of said court as now fixed by law.

Process re-
turnable there-
to.

§ 3. The special session of said court authorized by this act to be held may continue twelve days, if the business require it.

Length of term.

GEO. ROBERTSON,
Speaker of the House of Representatives.

JOHN B. THOMPSON,
Lieut. Governor and Speaker of the Senate.

Approved November 6, 1851.

L. W. POWELL.

BY THE GOVERNOR:

DAVID MERIWETHER, *Secretary of State.*

CHAPTER 10.

AN ACT to extend the provisions of an act, entitled, an act regulating the price of taking up boats on the Ohio river, approved January 29, 1839, to all the navigable streams in this state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky; That all the provisions of an act, entitled, an act to regulate the price of taking up boats on the Ohio river, approved January 29, 1839, be and they are

1851.

hereby extended to all the navigable streams in this state ; and this shall apply also to rafts, saw logs, and lumber of every description ; and the person or persons taking up the same, if he or they shall secure such rafts, logs, or lumber, shall be entitled to and receive fifteen cents for each log so taken up and secured, which the owner or owners shall pay before they shall take the same into possession.

Approved November 18, 1851.

CHAPTER 18.

AN ACT regulating changes of venue from County Courts.

County courts
and presiding
judge authoriz'd
to grant changes
of venue.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the passage of this act, changes of venue of any and all causes and motions pending in any county court within this commonwealth, or in the court held by the presiding judge of any county at his quarterly or monthly terms, shall and may be granted in the same manner, under the same limitations and restrictions, and for the same causes as are prescribed by "an act to amend the several acts authorizing changes of venue in civil cases," approved February 3d, 1815, and the act amendatory thereof, approved February 6, 1819. The changes of venue authorized by this act shall be made to the circuit court of the county in which the cause or motion may be pending, unless there be a legal ground of objection to the judge of the circuit court, or to the trial of the cause or motion in that county, in which case the change of venue shall be awarded to the circuit court of the nearest county to which the objection does not apply ; and the mode of trial and rules of procedure shall be the same prescribed for the trial of such causes or motions in the court from whence the same may be removed, so far as the same are applicable.

Change of ve-
nue to be made
to circuit court
on certain con-
ditions.

When change
made, original
papers, &c., to
be sent also.

Discretionary
with court to
retain papers.

§ 2. When any change of venue shall be so ordered, the judge or clerk of the county court, as the case may be, shall send the original papers, together with a transcript of all orders which have been made in the cause or motion, to the clerk of the court to which the change of venue is awarded ; and upon disposing of the matter, the court, according to the nature of the case, shall direct whether the original papers shall remain, or whether they shall be remanded to the court from whence they came. When they are remanded, the clerk of the circuit court shall retain a special statement of the taxation of costs, and return the original papers, with copies of all orders made in the premises by the circuit court, in the court from whence they came ; and when any paper is so returned, which, according to the order or judgment of the circuit court, ought to be recorded in the county court office, it

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shall be so recorded by the county court clerk, together with so much of the order of the circuit court as shall be necessary to place the same properly on record.

1851.

Approved November 19, 1851.

CHAPTER 24.

AN ACT to prescribe the term of office for the inferior offices of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all commissions for notary public, and other inferior offices, not provided for by law, which may be issued by the executive, shall be for the term of four years.

Approved November 24, 1851.

CHAPTER 44.

AN ACT to change the time of holding the Christian county Chancery Court.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, hereafter, the Christian county chancery court shall be commenced on the first Monday in August in each year, and continue in session two weeks, if the business of said court shall require it.

§ 2. That all process which has heretofore issued from the clerk's office of said court, returnable to any day of the ensuing term of said court, as heretofore fixed by law, shall be good and valid upon any of the corresponding days of said term, as fixed by this act, and shall be taken and considered as returnable to the term provided for in this act.

Approved November 25, 1851.

CHAPTER 60.

AN ACT to amend the charter of the Southern Bank of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the charter of the Southern Bank of Kentucky as requires the establishment of branches of said bank in certain districts, except as to the three districts where branches of said bank have already been located, be and the same is hereby repealed; and the president and directors of said bank are hereby authorized to locate three other branches as follows, viz: one branch north of the Kentucky river, one branch between the Kentucky and Green rivers, and one branch south of Green river, at such times and places as the president and direc-

LAWS OF KENTUCKY.

1851:

tors of said bank may deem best for the interests of the institution and the state: *Provided*, That nothing in this act contained shall in any event authorize the withdrawal of the branch of said bank from Hickman.

Approved December 2, 1851.

CHAPTER 61.

AN ACT for the benefit of the late Sheriffs of the several counties in this State.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful, for the term of two years from and after the passage of this act, for the several sheriffs who were in office at the May election held in the year 1851, by themselves, or any of their deputies, or by the present sheriffs or their deputies, or by an constable of their respective counties, to collect all taxes, county levies, and fee bills, arrearages of taxes, county levies, and fee bills, uncollected in their several counties for the years 1849 and 1850, in the same manner that taxes, county levies, and fee bills are by law to be collected.

Approved December 2, 1851.

CHAPTER 66.

AN ACT repealing all acts allowing the appointment of Deputy Constables.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all acts and parts of acts allowing the appointment of deputy constables in this commonwealth, be and the same are hereby repealed.

Approved December 2, 1851.

CHAPTER 69.

AN ACT to amend an act, entitled, "an act to organize County Courts in the several counties," approved March 11, 1851.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, it shall and may be lawful for any one or more creditors, heirs, devisees, legatees, or distributees of any estate, to file his, her, or their petition before the county court, according to the provisions of the 16th section of an act, entitled, "an act to organize county courts in the several counties," approved March 11th, 1851.

Approved December 2, 1851.

LAWS OF KENTUCKY.

5.

CHAPTER 74.

1851.

AN ACT to legalize the acts of certain officers.

WHEREAS, it is represented that certain constables and clerks of this commonwealth, after their election in May last, qualified and executed bonds in their respective counties, and entered upon the duties of their offices, before being commissioned by the Governor; and whereas, doubts exist as to the legality of their acts, by reason of not being commissioned. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the official acts of said officers, prior to their receiving commissions, otherwise done and performed according to law, be and the same are hereby legalized, and made as binding and effectual as if they had been commissioned at the time.

Approved December 2, 1851.

CHAPTER 80.

AN ACT for the benefit of the late Clerks of the Circuit and County Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the clerks of the several circuit and county courts, who were in office at the late election in May, 1851, their executors or administrators, to list with any sheriff or constable of their respective counties, at any time within two years from and after the passage of this act, their fee bills for collection; and said sheriffs or constables shall have power and authority to collect the same, by distress or otherwise.

Approved December 2, 1851.

CHAPTER 100.

AN ACT for the benefit of persons holding lands lying back of other lands, in the vicinity of any of the navigable streams in this State.

WHEREAS, it is important to many of the citizens of this commonwealth, who are the owners or occupiers of lands lying back of other lands, in the vicinity of any of the navigable streams in the commonwealth, that they be enabled to convey the products of their lands, as grain, timber, coal, &c., to the navigable streams, in order to convey the same to market. Therefore.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the several county courts shall have the same power to establish roads, not exceeding twenty feet wide, to any navigable stream within their respective counties, under the same rules and regulations that govern them in establishing other public roads, as now prescribed by law.

County court
may establish
certain roads.

1851.

Roads may be
established to
coal banks.

Proceedings
therefor.

Land to be con-
demned for that
purpose.

Damages to be
apportioned in
certain cases.

Damages to be
first paid.

Further pro-
ceedings.

§ 2. That any person or persons owning any large and extensive coal bank, or mine of iron ore; or any iron works, within three miles of any navigable stream in this commonwealth, shall have the right to apply to the county court of the proper county to establish a road from such banks, mines, or works, to the most convenient and suitable landing on such navigable stream; on which road the court may, if it deem the object of sufficient public importance and utility, allow the applicant to erect and keep a railway, with the necessary fixtures and appurtenances; and the court may further condemn and appropriate to that purpose a sufficient quantity of ground at said landing, for a depot, to be used by the said applicant, not exceeding two acres. No such railway shall be established or permitted, and no such depot allowed, until the court shall have appointed reviewers, and proceeded in all respects as in cases of application to establish public highways, under the laws at the time in force, giving to the owner or owners, tenant or tenants of the land over which such road is proposed to be run or made, the same notice, and the same right to claim an assessment of damages, as is given in cases of application to establish public highways.

§ 3. That in every inquest which may be had under the provisions of this act, the jurors shall, if any of the lands are held for a term of years, or by other tenure, less than a fee simple, apportion the damages between the holder of the particular estate, and those in reversion or remainder.

§ 4. That no such road or depot shall be established, until the damages assessed by the jury are paid or tendered.

§ 5. The court shall, by its order, make the necessary requisitions on the applicant to make and keep in repair, at suitable points on said road, suitable grades and causeways, to enable the owners of the land to pass the same; and the occupants of said road shall at all times be liable to the owner for the value of any stock killed or injured by the running of cars on said road.

Approved December 6, 1851.

CHAPTER 101.

AN ACT authorizing a special term of the Fleming Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the tenth judicial district shall, and it is hereby made his duty to hold a special term of the Fleming circuit court on the first Monday in January, 1852, for the trial of criminal and chancery causes, and continue the same for twelve juridical days, should the business of the court require it.

Approved December 6, 1851.

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CHAPTER 103.

1851.

AN ACT to regulate the duties of Jailers relative to runaway slaves.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, it shall be the duty of the several jailers in this commonwealth, when a runaway slave shall be committed to jail, under the provisions of existing laws, within ten days thereafter, to advertise said slave in the newspaper which has the publication of the laws of the state, in which he shall give an accurate description of the slave, and cause the same to be published for six months, if the slave be not sooner claimed by the master or owner.

[Duty of jailers respecting advertising runaway slaves.

§ 2. That when a runaway slave who is committed to jail is not sufficiently clothed, the jailer shall furnish him with proper negro clothing, and, when sick, with medical aid, to be paid by the master or owner, or out of the money for which said slave may be sold, under the provisions of the law regulating the sale of runaway slaves, after having remained in jail six months, as other jail fees are paid: *Provided, however*, that a physician, employed under the provisions of this act, shall not be allowed to charge and collect more than one dollar for each visit and medicine.

Such slaves to be clothed, &c., if necessary.

Expenses, how to be paid.

§ 3. That no physician's account for services rendered to runaway slaves, under the provisions of this act, shall be paid, unless the physician shall have obtained the affidavit of the jailer, sworn to before some proper officer authorized to administer oaths, stating that the medical aid, in his opinion, was actually necessary during the whole time the slave was under medical treatment, and that the services were actually performed by said physician.

Doctor's bill, how authenticated.

Approved December 6, 1851.

CHAPTER 113.

AN ACT to amend an act to encourage the general diffusion of Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That where two school districts adjoin it shall be lawful for the children in either of such adjoining districts to be taught in and at such school house as shall be most convenient to them: *Provided, however*, that their tuition fees shall be paid over to the trustees of that district in which they may be taught, and that no change contemplated or authorized by this act shall be made without the assent of a majority of the trustees of said school districts.

Approved December 13, 1851.

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CHAPTER 118.

AN AOT to amend an act, entitled, an act to regulate the retailing of ardent spirits.

How tavern license may be obtained.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That upon granting any tavern license by any court, or the trustees or authorities in any county, city, or town in this commonwealth, there shall be charged to the party obtaining said license a tax to the commonwealth of not less than five nor more than ten dollars, to be collected and accounted for as now required by law.

To sell spirituous liquors not implied by tavern license.

§ 2. That the privilege to sell spirituous liquors shall not be implied or embraced in any license to keep a tavern, as heretofore, nor in a license to keep any coffee house, boarding house, restaurat, or other place of entertainment licensed by any county court, or the trustees or other authority in any town or city, unless the said court, trustees, or other authority shall deem it expedient so to do, and shall specify said privilege in such license.

Court has power to grant right to sell liquor.

§ 3. It shall be the duty of any court, trustees, or other authority, who, in the exercise of their discretion, shall grant a license to retail spirituous liquors in connection with a license to keep a tavern, coffee house, restaurat, or other place of entertainment, to charge to and collect from the person so obtaining such license, a distinct and additional tax to the commonwealth, for the privilege aforesaid, of not less than ten nor more than twenty-five dollars, at their discretion, which sums shall be paid over and accounted for as taxes on tavern licenses are paid.

License not to be granted to druggist or merchant to sell less than a quart, by clerk.

§ 4. That no license shall hereafter be granted to any merchant, druggist, or other person, to sell spirituous liquor in quantities not less than a quart, by the clerk of any county; but all such persons as, by existing laws, may obtain such licenses from clerks, shall apply to the county courts, and the county courts may, in their discretion, grant such licenses, provided such applicants are merchants or druggists in good faith, and charge for such license a tax of not less than five nor more than fifteen dollars, and cause the same to be collected and accounted for as taxes on tavern licenses: *Provided*, that no druggist who may sell ardent spirits or wines for medical purposes only, shall be required to procure a license to sell the same.

Approved December 13, 1851.

CHAPTER 119.

AN AOT to change the time of holding the Clinton Circuit Court, and allowing an additional week to the Cumberland Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act, entitled, an act to fix the time of holding circuit courts in this commonwealth,

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approved March 22, 1851, as applies to the counties of Cumberland and Clinton, be and the same is hereby repealed, and that hereafter the Circuit Courts in those counties shall be held and continue as follows, to-wit: In the county of Cumberland, on the third Monday in May and the third Monday in November, and continue, each, twelve juridical days; and in the county of Clinton, on the first Monday in June, and on the first Monday in December, and continue, each, six juridical days.

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Approved December 13, 1851.

CHAPTER 134.

AN ACT allowing appeals from orders of County Courts fixing ferry rates.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the owner of any ferry in this commonwealth who shall feel himself aggrieved by the order of any county court in fixing, or changing, or refusing to increase the rates of his ferry, may appeal to the circuit court of the county at the same term of the county court at which said order is made, or may prosecute a writ of error at any time within sixty days.

Owners of ferries may appeal to circuit courts in fixing rates.

§ 2. That the county attorney may take an appeal in the name of the commonwealth to the circuit court, or prosecute a writ of error within sixty days from any order fixing or refusing to diminish the rates of ferriage at any ferry. The circuit court shall hear and try the question of fixing or altering the rates as an original case, and shall have power to order the rates of ferriage to be fixed by the county court.

Circuit court shall hear, determine, and fix rates.

§ 3. The owner of any ferry, upon serving notice on the county attorney, and setting up a notice at the court house door one month beforehand, may move the court to increase the rates of his ferriage, and the county attorney, upon giving written notice to the owner one month beforehand, may move the court to diminish the same.

How rates may be increased.

§ 4. No appeal or writ of error shall be prosecuted in the name of the commonwealth, unless some person becomes responsible to the adverse party for his cost in the same.

Approved December 15, 1851.

CHAPTER 139.

AN ACT to prohibit certain officers from trafficking in claims on county treasuries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, it shall not be lawful for any county judge, justice of the

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peace, or county attorney, to traffic for, purchase, or speculate in any claim or claims, to be allowed by the court of claims of the county of which he or they may be said judge, justice of the peace, or attorney; and that, for any violation of the provisions of this act, he or they may be punished by fine in a sum twice the amount of the claim so bought as aforesaid, upon the presentment or indictment of a grand jury.

Approved December 20, 1851.

CHAPTER 143.

AN ACT to authorize Justices of the Peace to hold inquests in certain cases.

Justices of the peace may act as coroners in certain cases.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That whenever the dead body of any person may be found, in any of the counties of this state, and the coroner of such county shall be absent therefrom, or at such distance as would render his attendance inconvenient, and the situation of such body be such as to require its immediate interment, it shall and may be lawful for any justice of the peace, in the vicinity where such body may be found, to summon a jury and hold an inquest thereon, in the same manner as coroners are by law authorized to do; and the said justice shall be allowed the same fees as are now allowed to coroners for similar services.

§ 2. That the provisions of this act shall only apply to the counties bordering the Ohio and Mississippi rivers.

Approved December 20, 1851.

CHAPTER 153.

AN ACT dispensing with commissions to certain officers of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all laws now in existence by which the governor of this state is required to issue commissions for constables, marshals, county attorneys, commissioners of tax, coroners, clerks of county and circuit courts, cadets of the Kentucky Military Institute, and cadets of the Western Military Institute, be and the same are hereby repealed, and said officers shall respectively be authorized to enter upon the duties of their offices so soon as they receive certificates of their election and qualify and execute bond, as now required by law.

Approved December 27, 1851.

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CHAPTER 159.

AN ACT to allow an additional term of the Harrison Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be held, in addition to now allowed by law, a term for the trial of criminal and chancery causes, in the county of Harrison, commencing on the second Monday in February in each year, and may continue twelve juridical days.

Approved December 27, 1851.

CHAPTER 162.

AN ACT to change the time of meeting of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the stated biennial meetings of the general assembly of the commonwealth of Kentucky shall commence on the last day of December, except when that day falls on a Sunday, and then they shall commence on the day preceeding.

Punishment to be inflicted.

Approved December 27, 1851.

CHAPTER 200.

AN ACT to punish persons for endangering life by placing obstructions on Railroads.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That any person or persons who shall willfully and maliciously tear up or displace any rail or switch, or break any bridge, viaduct, or fixture, on any railroad now in operation in this state, or which may hereafter be put in operation, or who shall place any obstructions thereon, or do any act whereby any locomotive or cars might be upset, arrested, or thrown from the track of any railroad, branch, turnout, or switch, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for not less than one nor more than five years.

Punishment to be inflicted.

§ 2. That any person or persons who shall, by any of the unlawful acts enumerated in the first section, cause the life of any person or persons to be put in immediate peril, or shall cause any locomotive or any car to be actually thrown off of the track of any railroad, switch, or turnout, shall, upon conviction, be punished by imprisonment in the penitentiary for not less than two nor more than ten years.

§ 3. That every person or persons who shall, by the commission of any of the aforesaid offenses, cause the death of any person or persons, shall be guilty of murder, and shall be punished with death, as in other cases.

§ 4. That nothing in this act shall be so construed as to prevent such railroad company, or any person injured, from

Damages may be recovered.

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sustaining a civil suit for damages against any person or persons committing the offenses aforesaid.

§ 5. All offenses under this act shall be tried in the circuit court of the county where the offense is committed, upon an indictment of a grand jury.

Approved January 1, 1852.

CHAPTER 207.

AN ACT to amend an act, entitled, an act further to provide for the collection of tolls on Kentucky, Green, and Big Barren rivers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the rates of tolls, as established by the board of internal improvement on the first day of January, 1851, from and after the passage of this act, shall no longer be collected or chargeable on any flatboat descending Kentucky, Green, and Big Barren rivers, and their tributaries, from any point or place above the influence of slackwater navigation; but that all such boats shall be allowed to pass the locks and dams on said rivers by paying toll according to the rates established previous to the first day of January, 1851.

Approved January 1, 1852.

CHAPTER 216.

AN ACT to regulate the times for holding the courts of Justices of the Peace.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the judges of the county courts in each county shall, by appropriate order entered of record from time to time, regulate the times in the months now fixed by law for holding the justices' courts, in such manner that they shall not conflict with each other or with the terms of the county court.

§ 2. The clerk of the county court shall furnish each justice of the peace in the county with a copy of the order, and copies thereof shall be posted by the sheriff at the court house, and at each voting precinct in the county.

Approved January 1, 1852.

CHAPTER 224.

AN ACT to amend an act, entitled, an act to fix the time of holding the Circuit Courts in this Commonwealth.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the circuit court for Livingston county shall hereafter commence on the second Monday in

Livingston circuit court.

June and December, and may continue twelve juridical days, if the business shall require it.

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§ 2. That the circuit court for Crittenden county shall commence on the fourth Monday in June and on the first Monday in January, and may continue twelve juridical days, if the business shall require it.

Crittenden circuit court.

§ 3. That this act shall not take effect until the first day of March, 1852.

Approved January 1, 1852.

CHAPTER 232.

AN ACT to amend the charter of the Newport Safety Fund Bank of Kentucky.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the 52nd section of an act, entitled, an act to incorporate the Newport Safety Fund Bank of Kentucky, approved March 24, 1851, be and the same is so amended as that notes to be issued by said bank, of a less denomination than five dollars, may be signed by the president or cashier of said bank, without being countersigned by any other officer of said bank, or by the auditor of state; and that the 55th section of said act be and the same is hereby repealed.

§ 52 of charter amended.

Notes less than \$5 to be signed by president or cashier only.

§ 2. That the 39th section of said act be so amended as to confer the same power on the Franklin circuit court of trying the forfeiture of the charter of said bank, as was conferred by said section on the general court.

§ 39 amended.

Approved January 2, 1852.

CHAPTER 233.

AN ACT to provide for the completion of the Second Kentucky Lunatic Asylum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, in addition to the appropriations heretofore made for the erection of the second Kentucky lunatic asylum, there is hereby appropriated the sum of twenty-one thousand five hundred dollars, to be paid in two semi-annual payments in the year 1852, and the sum of twenty-one thousand five hundred dollars, to be paid in like manner in the year 1853, out of any money in the treasury not otherwise appropriated; and the auditor of public accounts is directed to issue his warrant on the treasurer for the same, on the application of the commissioners appointed under the provisions of the second and eighth sections of an act, approved February 28, 1848, concerning said asylum: *Provided, however*, that should there be any unappropriated money in the treasury, the two last instalments of the appropriation hereby made may be paid at an earlier day than is above specified.

Approved January 2, 1852.

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CHAPTER 246.

AN ACT supplemental to an act incorporating the Commercial Bank of Paducah.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act passed at the present session, entitled, "an act to incorporate the commercial bank of Paducah," be so amended as to change the name and style of said bank to that of "the commercial bank of Kentucky," and that all the rights and privileges granted by said charter to the commercial bank of Paducah, is granted to the commercial bank of Kentucky.

Approved January 2, 1852.

CHAPTER 254.

AN ACT to amend the charter of the Kentucky Trust Company Bank.

Bank may be
appointed re-
ceiver, trustee
&c.

Capital stock
liable therefor.

Directors may
limit stock de-
posits.

Bank may issue
notes.

Not to exceed
capital stock.

To be redeemed
on presentation.

For failure to
redeem, 12 per
cent. damages
forfeited.

In such cases,
circuit court
may close up its
concerns.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, hereafter, the Kentucky trust company bank may be appointed receiver for any court in this commonwealth, trustee for any person or corporation, and treasurer for any society, person, or corporation; and whenever said bank shall be appointed to act in any of the foregoing capacities, and shall accept the trust, the capital stock of said bank shall in every instance be bound for the faithful discharge of such trust.

§ 2. Whereas, by the terms of the original charter of said bank, the amount of stock deposits authorized to be made therein is unlimited; for remedy whereof, *Be it further enacted,* that the directors of said bank may, at any time, limit the amount of such stock deposits, by their by-laws, to any sum which, in their judgment, will be the best policy for said bank and the community.

§ 3. That the said bank shall hereafter have the privilege of issuing bank notes, payable to the bearer in gold and silver coin on demand, at its banking-house, of denominations not less than one dollar; but the amount so to be issued shall at no time exceed the amount of the stock of said bank actually paid in; and all such notes, when presented at said banking house in regular banking hours, and payment demanded, shall be redeemed by said bank in gold or silver coin of the United States; and if said bank shall at any time fail or refuse to redeem any of such notes, when so presented, or unnecessarily delay the payment of the same, said bank shall forfeit and pay to the holder of such note or notes damages at the rate of twelve per cent. per annum, for the delay occasioned, to be recovered by action in any court of justice within this commonwealth having jurisdiction thereof; and for any such refusal or delay, it shall be lawful for the circuit court for the county in which said bank is situated, upon petition filed and sworn

to by any citizen of this state, to appoint a commissioner to take possession of all the books, papers, money, and other property of said bank, and close its affairs, under such orders and judgments as may by said court be rendered in the premises, and apply all and singular the effects of said bank to the payment of its creditors, *pro rata*, according to the several demands.

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Approved January 2, 1852.

CHAPTER 259.

AN ACT to incorporate the Commercial Bank of Paducah.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be and is hereby established, a bank, by the name of "the Commercial Bank of Paducah," with a capital of five hundred thousand dollars, to be divided into shares of one hundred dollars each, and to be subscribed and paid for by individuals, companies, and corporations, in the manner hereinafter specified; which subscribers and stockholders, their successors and assigns, are hereby created a body politic and corporate, by the name and style of "the Commercial Bank of Paducah," and shall so continue a body politic and corporate until the first day of May, 1880; and, by that name under the restrictions hereinafter named, shall be competent to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts or places, in all matters whatsoever, as natural persons, with full power to acquire, hold, possess, use, occupy, and enjoy, and the same to sell, convey, and dispose of, all such real estate, goods, effects, and chattels, as shall be convenient for the transaction of its business, or which may be conveyed to said bank as surety for any debt, or purchased in satisfaction of any judgment or decree in favor of the bank, or in the purchase of any property on which said bank may have a lien; and said bank may have and use a common seal, change, alter, and renew the same at pleasure; and it may ordain and put in execution such by-laws, rules and regulations for the good government of said bank, and the prudent and efficient management of its affairs, as may be thought most proper: *Provided*, that they be not contrary to the constitution and laws of this state or the United States.

Style of corporation and amt of capital stock.

Powers of the corporation.

§ 2. The said bank shall have and keep its principal office of discount and deposit in the town of Paducah; and it shall have one other office of discount and deposit in the town of Harrodsburg, Mercer county; and one other at Versailles, in Woodford county. The business shall be to loan money, discount promissory notes and bills, and deal in exchange; and it may issue bills and bank notes, pay-

Principal and branches.

Issues.

1852.

ble to bearer on demand, at either of its offices of discount and deposit, but not of less denomination than one dollar; and it shall not issue any notes, bills, checks, or orders, payable to bearer, other than such as are made payable on demand. The promissory notes made payable to any person or persons, and payable and negotiable at the principal office of discount and deposit, or branches of said bank, or at any other bank, and indorsed to and discounted by said bank, shall be and they are hereby put on the same footing as foreign bills of exchange, and remedy may be had, jointly or severally, against the drawer and indorser, and with like effect, except as to damages, and except that in a regular course of administration, they shall have no other or greater dignity, or priority of payment, than other notes; and the said bank shall not, directly or indirectly, deal or trade in any thing except in loaning money and exchange, and in gold or silver coin and bullion, or in the sale of goods, chattels, rights, credits, really and truly pledged for money lent, and not redeemed in time, or goods which shall be the proceeds of its lands.

By whom the
notes to be
signed.

§ 3. The bank notes to be issued by said bank, shall be signed by the president of the principal bank, and countersigned by the cashier thereof; and said bank shall be restrained from issuing checks or orders payable at either of its offices or elsewhere, to any person or order, or to any person or bearer, with the intent that the said checks or orders shall circulate as bank notes.

President and
directors liable.

§ 4. Said bank shall not, at any time, owe, whether by bond, bill, note, or other contract, an amount exceeding twice the amount of the capital stock actually paid in, exclusive of sums due on deposits; and, in cases of excess, the president and directors, under whose administration it shall have taken place, shall be liable for any or all of the debts of said bank, in their individual capacities, by a joint or several actions or modes of proceedings usual in the courts of this commonwealth, against them or any of them, their heirs, executors, or administrators, in any court having jurisdiction thereof, by any creditor or creditors of said bank, and shall be prosecuted to judgment and execution, any condition or agreement to the contrary notwithstanding: *Provided*, that if the president or any of the directors may be absent when the excess may be contracted or created, or, being present, shall dissent from the act by which the excess is about to be contracted or created, he or they shall not be liable under this section, if he or they shall, within ten days from the creation of such excess, or discovery thereof, make affidavit of their absence or dissent, and file the same for record with the recording officer of the county; and shall, moreover, within ten days, give notice thereof in one of the public newspapers printed in this state, and transmit a copy thereof to the governor of this state for

the time being; and shall, in said notice, call a meeting of the shareholders, which they are hereby authorized to do.

§ 5. Said bank shall not, at any time, suspend, fail, or refuse payment, in gold or silver, of any of its notes, bills, or other obligations, due and payable, or any moneys on deposit; and, in such case, the officers, in the usual banking hours, at the office of discount and deposit, where the same shall be payable, shall refuse payment, in gold or silver, of the amount of any note there demandable and presented for payment, or the payment of any money previously deposited at such office, and then due and demandable, by any person or persons entitled to receive payment of the same, said bank shall be liable to pay damages, at the rate of six per centum per annum on the amount thereof, from the time of such failure or refusal until payment thereof; and for such failure or refusal, or for any violation of this charter, the same may be forfeited; and a *scire facias* may be sued out in the name of the commonwealth, by the attorney general, by order of the governor for the time being; and such proceedings may be had as to declare such forfeiture by the judgment of a court; and from and after the judgment of forfeiture, said corporation shall cease to exercise any of the powers and privileges hereby granted: *Provided*, said forfeiture shall not be construed to prevent said bank from suing and being sued, and continuing its operations for the purpose of closing its concerns, nor from making any contracts that may be convenient and proper for that purpose.

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What the consequences on refusal to pay demands.

§ 6. The real and personal estate, business, property, funds, and prudential concerns of said bank, and the administration of its affairs, shall be under the direction, management, and control of five directors, chosen as hereinafter directed. They shall be stockholders, and, after the first election, shall have been stockholders at least three months previous to their election. They shall be residents of this state, and citizens of the United States; and, after the first election, they shall be elected annually on the first Monday in May in each year. Each director shall be a stockholder in his own right; they shall hold their offices for one year, and until their successors shall be chosen. The directors shall be chosen by the shareholders, who shall meet at the annual elections in the town of Paducah, at such time and place as the directors, for the time being, shall direct; and notice of the time and place of holding the annual election shall be published in at least two authorized newspapers, thirty days next preceding the election. The election shall be by plurality of votes, to be counted and read in public, after all the votes are taken; the election shall be conducted under the direction of three shareholders, acting under oath and previously chosen by the directory, and not of their own body. No person, who is a director

Who to control the affairs.

Directors chosen.

1852.

Who competent
to act as direc-
tor.

or officer of another bank, shall be eligible as a director of this bank; and any director becoming a director or officer in another bank, or while under protest in this bank for the non-payment of debts, shall be held to have vacated the office of director of this bank; nor shall two partners in trade be eligible as directors in this bank at one and the same time; and if the president, cashier, or any director, shall fail or become insolvent, after his election or appointment, he shall become incapable to serve as an officer in this bank, and shall be held to have vacated his office or place; nor shall he be appointed to serve in this bank until his debts are paid, and obtains a full discharge from the same. If, from any cause, an election shall not take place on the day fixed by this charter, the corporation, for that cause, shall not be dissolved, but the stockholders may hold an election on any other day the by-laws shall direct.

Number of votes
each share en-
titled to.

§ 7. At all meetings of the stockholders, and at all elections under this charter, each and every shareholder, whether individuals, companies, or corporations, shall be entitled to one vote for each share held in their own right, up to fifty shares, and every five shares, over fifty, up to one hundred, one vote. After the first election, no share shall entitle the holder to a vote, unless the same has been held by the person claiming to vote on the same, at least three months prior to that time, and so appear on the books of the bank. Any stockholder entitled to vote may do so in person or by proxy; such proxy being granted to a stockholder who is not the president or a director, the clerk, cashier, or teller of the bank; and any stockholder, who is not a resident of the United States, shall not be entitled to vote on his stock.

President elect-
ed, and his du-
ties.

§ 8. The directors chosen for the principal bank, under the provisions of this charter, shall, as soon as may be after the first, and every annual election, or other election of directors, elect a president from their own body, who shall preside at the board until the next election; and in case of the death, absence, or resignation, or vacation of the office of president, the residue of the directors shall choose a president *pro tempore*. They shall fill all vacancies which may occur in their own body, during the time for which they were chosen, and appoint a cashier, clerk, agents or servants of the principal bank, fix their compensation, define their powers, and prescribe their duties; and shall require of them such bonds, and in such penalties, as they may deem right; which bonds shall be laid monthly before the directory, and entry made thereof on record; and the directory may, from time to time, require such additional bonds and sureties, with such penalties and conditions as in their opinion will secure the bank from loss or damage; and all such officers shall hold their places during the pleasure of the president and directors.

§ 9. The president and directors of the principal bank, (any three of whom shall form a quorum for the transaction of business,) may, from time to time, make such by-laws, rules, and regulations for their own government, and for the management and disposition of the property, estate, funds, and business of the bank, and all matters appertaining thereto, which they may deem expedient, not contrary to the provisions of this charter, or the by-laws, rules, and regulations which the stockholders, at their annual or other meetings may, from time to time, prescribe: *Provided, however,* that a concurrence of a majority of all the directors shall be necessary in the adoption of any of the by-laws of the institution.

1852.
Who constitute
quorum.

§ 10. The president and directors shall hold stated meetings at least once a week, on such days, and at such hour of the day as they may, from time to time, appoint, and at such other times as they may agree upon; and they shall attend called meetings at any time the president shall direct; and all questions before the board shall be decided *viva voce*; and, on the request of any two members, the yeas and nays on any proposition submitted, shall be entered or recorded on the journal of their proceedings; and no vote shall be reconsidered when a less number are present than when the vote was given.

How often
meetings to be
held.

§ 11. The president and directors of the principal bank shall establish one branch, viz: at Harrodsburg, in the county of Mercer, and one other branch at Versailles, in the county of Woodford, which branch shall go into operation upon the same terms and conditions as those herein prescribed for the branch at Harrodsburg. The amount of capital stock which shall be employed at the principal bank, shall be two hundred and fifty thousand dollars, at Harrodsburg, one hundred and fifty thousand dollars, and at Versailles, one hundred thousand dollars: *Provided,* that when the bank goes into operation, if with less than the whole stock taken, or whole amount paid in, the capital stock, at one of the points where such principal bank or branch may be located, shall be applied to such bank or branch at such point.

Where branches
to be located,
and the amount
of capital of
each.

§ 12. There shall be five directors for the branches of said bank, to be chosen at the same time and manner of the directors of the principal bank, and to possess the same qualifications; one of whom shall be appointed president, by the directors of the principal bank. The directors of the principal bank shall prescribe such rules and regulations for the government of its branches as they may deem right, and shall have power to enforce the same. The president and directors of the principal bank shall have power to fill any vacancy in the directory of the branches.

Directors to be
chosen, their
qualifications &
duties.

§ 13. The directors of the principal bank shall appoint a cashier of the principal bank, and a cashier for its branch-

Cashier.

1852.

es. The president and directors of its branches shall appoint a clerk, and such other officers as the president and directors of the principal bank shall direct. Not less than a majority of the directors of said branches, respectively, including the president, shall form a quorum for the transaction of business.

When dividends to be declared.

§ 14. No dividends of the profits of said bank shall be declared until there shall be a surplus of one thousand dollars for each one hundred thousand dollars of the capital stock actually paid in; and the surplus or contingent fund thus raised, shall never be reduced below that ratio, on all stock paid for; and it shall be the duty of the president and directors of the principal bank, on the first Monday in January and July of each year, to declare a dividend of the profits over and above the contingent fund aforesaid, among the stockholders, payable to them on demand; of which dividend, and the time and place of payment, notice shall be given. And if, at any time, said president and directors shall declare a dividend lessening the capital stock, or lessening the contingent fund aforesaid, or by any mismanagement or neglect of duty shall cause any loss or deficiency of or in the capital stock of said bank, the directors consenting thereto, or guilty of such mismanagement or neglect of duty, shall be jointly and severally liable to the stockholders, or any creditor of said bank, who may be injured thereby; and the president and each director shall be deemed guilty of such mismanagement or neglect, or to have consented to such dividends, unless he forthwith give notice of his dissent thereto, or his absence from the institution, in like manner as provided in the fourth section of this charter, and call a meeting of the stockholders as herein provided.

Liability of the directors.

Duties of the cashier.

§ 15. It shall be the duty of the cashier of the principal bank, on the first day of July after said bank shall have gone into operation, and on the first day of July in each succeeding year, during the continuance of this charter, to pay to the treasurer of this commonwealth fifty cents on each hundred dollars of stock held and paid for in said bank, which shall be in full of all tax or bonus: *Provided*, that the tax or bonus hereby proposed to be imposed on each share of stock in this bank, is hereby set apart and forever dedicated to the cause of education, on the common school system; and whenever the same, or any part thereof, shall be diverted otherwise, by legislative enactment, said bank shall then be exonerated from the payment of any tax or bonus whatever.

Compensation of the president.

§ 16. The board of directors of the principal bank shall allow to the president thereof, and to the president of the branches such reasonable compensation for their services as they may, from time to time, deem just; but no compensation shall be allowed any director of the principal bank

or branches, unless the same be voted by the stockholders at some regular meeting.

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§ 17. It shall be the duty of the president and directors of the principal bank, and they are hereby required, as often as once in three months, to cause a strict examination to be made of the accounts of the cashier, and a full and complete statement to be made and entered on the journal of the proceedings of the board; and they shall cause the president and directors of the branches to make a like examination and statement of the accounts of the cashier once every three months, to be made and entered on the journals of their proceedings.

Examination to be made of condition, &c.

§ 18. That it shall not be lawful for the cashier, clerk, or other subordinate officer of the principal bank, or branches, either directly or indirectly, to engage in or carry on any other business than that of said bank, without the special license of the president and directors of the principal bank; nor shall any of them, either directly or indirectly, become indebted to said bank, either as borrower, indorser, surety, or otherwise.

Restrictions of the officers.

§ 19. If the cashier, clerk, teller, agent, or other officer of the principal bank, or branches shall, without the authority of the president and directors of the bank or branches, as the case may be, appropriate any of the funds of said corporation to his own use, or to that of any other person, or shall willfully fail to make correct entries, or shall knowingly make false entries on the books of the bank, with intent to cheat or defraud the corporation or any person, to hide or conceal any improper appropriation of the funds of the corporation, the officer so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be sentenced to confinement in the jail and penitentiary of this state for a period of not less than five nor more than twenty years.

Penalties for malfeasance of officers.

§ 20. The president and directors of the principal bank shall keep a record or journal of all their proceedings, which they shall produce to the stockholders when by them demanded, at any regular meeting; and they shall be open to inspection to any committee appointed by the legislature; and the president and directors of the principal bank shall cause the president and directors of the branches to keep a record or journal of all their proceedings, which they shall produce to the president and directors of the principal bank at all times, or to any person or persons authorized by them to inspect the same; and which shall be open to the inspection of the stockholders at any general meeting, or to a committee appointed by the legislature.

Record of proceedings to be kept.

§ 21. It shall be the duty of the president and directors of the principal bank, during the first week of the session of the legislature in each year, to transmit to the secretary

Officers to make report to legislature.

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of state an accurate and just statement of the condition of the principal bank and branches, as it existed on the first day of the preceding month; which statement shall specify the amount of capital stock actually paid in, and the amount not paid in, and the value of the real estate belonging to the bank, and its cost, the total amount of debts due to and from the bank, the amount of gold and silver and other coined metal and bullion on hand, the amount deposited, the amount of bills in circulation, and the amount of bills on hand of other incorporated banks; and the amount of notes in circulation of each denomination issued by the bank, the rate and amount of dividend and profits made by the bank, with the amount of the surplus profits or the contingent fund; which statement the governor of the commonwealth shall cause to be laid before the legislature of Kentucky; and they shall, when required by the legislature, report all bad and doubtful debts.

Officers to take
oath, &c.

§ 22. The president, directors, cashiers, clerks, tellers, and other officers of the principal bank and branches, previous to entering on the discharge of their duties, shall take an oath before some justice of the peace of this state, faithfully, honestly, impartially, and to the best of their skill and judgment, to discharge all the duties of their respective offices and stations, under this charter, or which may be required of them by the by-laws, rules, and regulations of the corporation.

§ 23. Said bank shall not contract for, or receive greater rate of interest than at the rate of six per cent. per annum for the loan or forbearance of money and interest on promissory notes, negotiable and payable at said bank, and their discount shall be calculated on the true time such notes have to run, including three days of grace, and shall be paid in advance and on banking principles, in conformity with Rowlett's tables of discount and interest.

Certificates of
stock to be is-
sued.

§ 24. That the president and directors shall issue certificates of stock, to the holders thereof, for so much as shall be paid for; and the shares of the capital stock of said bank shall be considered and held, in law, as personal property, and assignable and transferable only in such manner, and at such place or places as the president and directors of the principal bank shall, by their by-laws, prescribe.

By whom cer-
tificates to be
signed.

§ 25. The certificates of deposit, bank bills or notes, bills of exchange, post notes, or orders issued by said bank, shall be signed by the president and countersigned by the cashier, promising or requesting the payment of money to any person or persons, and to order or bearer, as the case may be, shall be obligatory on said bank, although not under its seal; and such of said notes or bills as shall be payable to order, shall be transferable by assignment, and those made payable to bearer, by delivery.

§ 26. That the general meeting of the stockholders shall

be held annually, on the first Monday in May in each year, in the town of Paducah, at the time of the annual elections; to which meetings the president and directors of the principal bank shall present an accurate statement of the condition and affairs of the bank; and general meetings of the stockholders may be called as provided in the charter, or by the president and directors of the principal bank, when they esteem it desirable, or by any number of stockholders the by-laws of the corporation shall require.

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Annual meet-
ing of stock-
holders.

§ 27. The legislature shall have the right to investigate the situation and affairs of said bank, by any committee they may appoint for that purpose, from time to time.

Powers of the
legislature.

§ 28. The circuit court of the county where said bank shall be located, shall have jurisdiction to try the forfeiture of this charter, for the violation of any of the provisions of the same. The proceedings shall be by *scire facias*, alleging and specifying the acts of forfeiture relied on; and shall only be sued out at the instance of the attorney general, when directed to do so by order of the legislature or the governor for the time being; from the decisions of which court, appeals may be taken as in other cases.

Powers of the
circuit court.

§ 29. That William F. Norton, R. S. Ratcliffe, L. S. Trimble, John W. Crockett, jr., J. C. Calhoun, G. H. Morrow, H. S. Lewis, D. Watts, and Jesse H. Gardner, of the town of Paducah; James Taylor, Isaac N. Thompson, Christopher Graham, Sanford McBrayer, Christopher Chinn, Elijah Hutchinson, William Thompson, of the town of Harrodsburg and county of Mercer; David Thornton, Richard Shipp, jr., Medley Shelton, James C. Shouse, and George W. Carter, of the town of Versailles, Woodford county, are hereby appointed and constituted commissioners to open books and receive subscriptions for the stock of said bank, at their respective places; and any three of them shall superintend the election of the first board of directors.

Commissioners
to open books.

§ 30. The said commissioners, or a majority of them, shall have power, and they are authorized and required, at such time as they may deem it expedient, after giving twenty days notice thereof in some of the newspapers printed in this state, to open books for the subscription of capital stock of said bank at Paducah, Harrodsburg, and Versailles, and such other places as the commissioners may deem advisable, and cause the books to be kept open until at least seven hundred and fifty shares of stock shall have been subscribed for the bank at Paducah, and seven hundred and fifty shares of stock shall have been subscribed for the branch of said bank at Harrodsburg, and seven hundred shares of stock shall have been subscribed for the branch at Versailles, when the same may be closed. The commissioners at Paducah may appoint commissioners in any town or city in the United States to receive subscriptions of stock.

When books to
be opened.

1852.

Books may be
re-opened.

§ 31. The commissioners, or president and directors of the mother bank, may cause the books for the subscription of stock to be re-opened, whenever and wherever they may be requested to do so by the commissioners, or a majority of them, at the place where the branch is established, as aforesaid, or by the president and directors of said branch which may have been organized with less than the whole of the capital stock herein before allotted to them; and the said books may be kept open, or, if closed, may, from time to time, be re-opened upon request as aforesaid, until the whole amount of the capital stock of said bank shall be taken.

Books may be
kept open until
whole stock is
taken.

§ 32. If the whole five thousand shares of capital stock shall not be taken when the books of subscription shall first be opened by the commissioners, the president and directors may cause the books to be opened, from time to time, and at such times and places as they may direct, and cause them to be kept open, if they choose, until the whole balance shall be taken; and the president and directors may require such premium on the stock sold, at the re-opening of books, as they shall deem right; and such premium shall be the property of the bank.

When board of
directors to be
chosen.

§ 33. When not less than twenty-two hundred shares of the capital stock shall have been taken, and the commissioners shall have closed the books, it shall be their duty to give notice in some public newspaper printed in this state, and appoint a day and place in the town of Paducah for the election of the first board of directors for said bank, who shall hold their offices until the next succeeding annual election; and not less than thirty nor more than sixty days notice shall be given of the time and place of electing the said board of directors; and some three of the commissioners shall act as inspectors of the election, and shall take the proper oaths, and perform all duties of inspectors of elections in like cases.

How subscrip-
tion to be paid.

§ 34. The payment of the shares of the capital stock held by individuals, companies, and corporations, shall be in gold and silver, and at the times, and in the manner following, to-wit: five dollars on each share to the commissioners, at the time of subscribing; and five dollars on each share within ten days after the election of the first board of directors; and twenty dollars on each share within sixty days thereafter; and the residue shall be paid in such installments as the president and directors of the principal bank shall require: *Provided*, that no more than twenty dollars shall be called at any one time, on each share, nor shall the time between the calls be less than one hundred and twenty days.

When stock is
forfeited.

§ 35. Should any of the subscribers to the capital stock of said bank fail or refuse to pay for their stock, as herein provided, the president and directors first giving public no-

1852.

tice in at least two newspapers printed in this state, for the space of thirty days, by a resolution entered on the records, may forfeit such stock, and proceed, at such time as they may deem expedient, to re-sell the same; and all partial payments made on any stock which shall be forfeited, shall be held for the benefit of the bank.

§ 36. So soon as sixty thousand dollars of capital stock shall have been paid in by individuals, corporations, and companies, in gold or silver, the president and directors shall cause the governor of this commonwealth to be notified thereof, who is hereby authorized to appoint some suitable person to count the money so paid in as capital stock, and to take the oath of the president, and not less than two of the directors, that the same has been paid in as stock, *bona fide*, and make due return thereof to him; and, on such appearing to be the fact, the governor is authorized to issue his proclamation, that the amount hereby required to be paid in, and in the funds required, has been done, and the said bank is authorized to commence operations as a banking institution; and from and after the first proclamation it shall be lawful for said bank to commence business.

When governor to be notified.

§ 37. If any stockholder or stockholders in said bank, who shall not be a resident or residents of the United States, shall vote, or authorize any person to vote at the election of directors for said bank, upon the stock held by such person or persons, not a resident or residents of the United States, or which may be held by others for his or their use and benefit, that such stock, so held and may have been voted upon, or authorized to be voted upon, at any of the elections for directors of said bank, shall be forfeited by such stockholder or stockholders, to and for the use of said bank.

Stock forfeited on certain conditions.

§ 38. The bills or notes of said corporation, originally made payable to bearer, shall be receivable in all payments to the State, and on account of county levies, so long as it shall redeem its notes in gold or silver, on demand, unless otherwise directed by law.

Bills receivable for public dues.

§ 39. No person shall be eligible to the office of director in the principal bank, or branches, who is not the owner of stock, in his own right, at the time of his election or appointment.

Qualification of directors.

§ 40. It shall not be lawful for the president or any director of the principal bank or branches, to become bound as surety or accommodation indorser on any note or bill discounted in said bank; and a violation of any of the provisions of this section shall subject the person violating the same to the penalty of two thousand dollars, to be recovered by action or petition, in the name of the corporation, and for their use and benefit.

No officer to be security.

§ 41. Said bank shall not make any loan of money, or discount any note or bill, on the pledge of the stock of

How debts due to be paid.

1852.

said bank, whatever; and no stockholder shall be allowed to pay any debt he may owe the bank, by the surrender of the stock of the bank, until all the notes of the bank shall have been redeemed, and all the debts of the bank paid; and stockholders who shall become indebted to the bank, shall be compelled to pay their debts, in all respects, as other persons dealing with the bank; nor shall any stockholder be allowed to make payment of the shares of stock held by him, by means of a loan or loans obtained from said bank.

Cashier to make
report.

§ 42. The president and directors of the principal bank shall cause their cashier to make semi-annual reports, on the first day of January and July in each year, in alphabetical order, of all the debts due said bank, setting out the amount due by each individual, with the names of the indorsers or securities, and a note of the other securities, the date of the notes or bills, and when payable; and they shall cause the cashiers of the branches to make a like complete memorandum, in alphabetical order, of all the debts due at the branches, by each individual, with the names of the indorsers or other security, and the date of the notes and bills, and when payable; one copy of which shall be retained at the branch; another copy shall be transmitted to the principal bank; and these memorandums shall, at all times, be open to the examination of the president and directors of the principal bank and branches.

President and
directors' power
to transfer scrip.

§ 43. The president and directors of the principal bank shall have power and authority to purchase and to transfer any scrip or bonds which may be issued by the state: *Provided*, not more than one-half of the capital stock of said bank paid in, be held in such scrip or bonds at the same time.

§ 44. Notes to be issued by said bank, of a less denomination than five dollars, may be signed by the president or cashier of said bank, without being countersigned by any other officer.

§ 45. The president and directors of the principal bank may, under the direction of such agent or agents as they may think proper to appoint, and keep open books for the transfer of the stock of said bank, at such places, and under such rules and regulations as they may deem proper.

When bank to
go into opera-
tion.

§ 46. Nothing in this charter or act of incorporation shall be construed so as to prevent the bank to be established at Paducah from going into operation whenever seventy-five thousand dollars of stock shall be subscribed and taken, and the sum of twenty-two thousand five hundred dollars shall have been paid in, as required in sections thirty-three and thirty-six; and the branch at Harrodsburg shall go into operation whenever seventy-five thousand dollars of stock shall have been subscribed and taken for said branch, and the amount of twenty-two thousand five hundred dol-

lars shall have been paid in ; and the branch at Versailles shall go into operation whenever the seventy thousand dollars of stock shall have been subscribed and taken for said branch, and the amount of twenty thousand dollars shall have been paid in.

1852.

Approved January 3, 1852.

CHAPTER 260.

AN ACT concerning certain Public Books.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky.* That it shall be the duty of every person in this commonwealth, heretofore and not now holding the offices of judge of the court of appeals, judge of a circuit court, or commonwealth's attorney, within thirty days after the passage of this act, to return to the clerk of the county court of the county of his residence all public books in his possession, to be held by such clerk subject to the order of the secretary of state ; and it shall be the duty of each clerk receiving such books forthwith to transmit by mail, to the secretary of state, a full and complete list of all books so received by him ; and upon the production of the affidavit of any of the judges of the court of appeals, or judges of the circuit courts, now in office, stating that he has not received all the books to which he is entitled by law, and specifying such as he may not have received, it shall be the duty of the secretary of state to give him an order for the books wanting, upon the most convenient clerk or clerks having such books subject to his order : *Provided*, That after the supply of all the above mentioned officers with books, as above, then the said secretary shall distribute, by order, as above, the remaining books among the county judges not heretofore supplied.

Books of public officers to be returned.

Duty of the clerks.

§ 2. All laws now in force requiring the secretary of state to purchase books are hereby repealed.

§ 3. The secretary of state is hereby directed to forward a copy of this act to each of the late judges of the court of appeals and circuit courts, and commonwealth's attorneys, immediately after its passage.

Duty of Secretary of State.

Approved January 3, 1852.

CHAPTER 270.

AN ACT to fix the time of holding the Circuit Courts in the Eighth Judicial District.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, hereafter, the circuit courts for the several counties in the eighth judicial district shall commence in the several counties at the times hereinafter .

Time of holding courts in 8th district changed.

1852. mentioned, and be held in each for the following number of juridical days, if the business require it, viz :

Kenton. In the county of Kenton, at Covington, on the first Mondays in March and October, and continue each eighteen juridical days; and at Independence, on the second Monday in June and on the first Monday in December, and continue each six juridical days.

Carroll. In the county of Carroll, on the fourth Mondays in March and August, and continue each six juridical days.

Henry. In the county of Henry, on the first Monday in April, and continue twelve juridical days; and on the first Monday in September, and continue six juridical days.

Grant. In the county of Grant, on the third Monday in April, and continue six juridical days; and on the second Monday in September, and continue twelve juridical days.

Owen. In the county of Owen, on the first Monday in May, and continue twelve juridical days; and on the second Monday in November, and continue six juridical days.

Gallatin. In the county of Gallatin, on the fourth Mondays in April and September, and continue each six juridical days.

Boone. In the county of Boone, on the third Monday in May, and the fourth Monday in October, and continue each twelve juridical days.

Oldham. In the county Oldham, on the first Monday in June, and on the third Monday in November, and continue each six juridical days.

Trimble. In the county of Trimble, on the third Monday in June, and on the fourth Monday in November, and continue each six juridical days.

Chancery and criminal term in Kenton § 2. There shall be held in the county of Kenton, at Covington, a chancery and criminal term, to commence on the first Monday in July, and continue twelve juridical days.

All process to be returnable there to. § 3. Any and all process issued, or to be issued, and made returnable to any other terms, or at any other times than those named in this act, shall be and are hereby made returnable to the terms and at the times named in this act.

Approved January 3, 1852.

CHAPTER 294.

AN ACT for the benefit of Common School Districts in this Commonwealth.

Power to draw money. § 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, the commissioners and trustees of common schools shall be and they are hereby allowed to draw from the public treasury, on all reports from their respective school districts for the year 1850 and 1851, which shall have come to the hands of the superintendent

of public instruction by the first day of March, 1852, the same sums of money that they could have drawn had said reports been returned in the time required by law.

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§ 2. That the commissioners and trustees for all common school districts, in which district schools were for the first time organized in the year 1851, according to law, and in which schools were taught according to law for three months before the end of said year, be and they are hereby allowed until the first day of April, 1852, to return their reports; and if said reports shall in other respects comply with the requisitions of the law, they shall entitle the districts from which they are made to the same sums of money to which they would have been respectively entitled, had they been returned in time; and the superintendent of public instruction shall cause the same to be paid according to and in conformity to law.

Commissioners,
when to make
report.

Approved January 3, 1852.

CHAPTER 325.

AN ACT to establish the County of Powell.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the 2nd Monday in May, eighteen hundred and fifty-two, all those parts of Montgomery, Clarke, and Estill counties within the following boundaries, to-wit: beginning at the point where the division line of the counties of Owsley and Morgan intersect the line of Montgomery county; thence with the Morgan and Montgomery line to the Montgomery and Bath line; thence with the Bath and Montgomery line to the top of the dividing ridge between the waters of Red river and Slate creek; thence with the top of said ridge or mountain to the point where the road leading from French's mill to Mountsterling crosses the mountain, which point is known as Morris' mountain; thence in a straight line to a point on the south-east branch of Lulbegrud creek, in the county of Clarke, opposite the mouth of the Oil Spring branch; thence down said creek of Lulbegrud to its mouth; thence up Red river to a point at or near the mouth of Black creek; thence in a straight line, so as to leave the residence of Andrew Lowell, in Estill county, to a point on the top of the ridge that divides the waters of Red river from those of the Kentucky, where the Montgomery and Estill lines there intersect; thence with said ridge to the intersection of the Montgomery, Estill, and Owsley lines; and thence with the Montgomery and Owsley lines to the beginning; shall be and the same is hereby stricken from said counties, and erected into one district county, to be called Powell, in honor of Kentucky's present executive, Lazarus W. Powell.

Powell county
established.

Boundary.

Name.

§ 2. That the county of Powell shall be laid off into four

1852.

Justices districts and election precincts to be laid off by commissioners.

Certified copies of boundaries, what to do with them.

Commissioners designate officers of election.

Who to be elected.

Election, when held.

Polls, how compared.

Officers to take oath, and some to execute bond.

districts for justices of the peace and constables; which districts shall also be election precincts. John Hardwick, Arthur Welch, Madison Stewart, Thomas White, McIlberry Daniel, David Tate, Paul J. Evans, and Jonas Falkner are appointed commissioners, who, after taking an oath faithfully and impartially to discharge their duties as such, shall lay off said districts and precincts, and designate the place of voting in each one. A majority of the commissioners may act. They shall meet at the house of John Hardwick, on the 2nd Monday in March next, or as soon thereafter as may be, and proceed to the duties imposed on them by this act. They may adjourn from time to time, and place to place, until through. They shall lodge a certified copy of the boundaries of said districts and precincts in the hands of Thomas White, whose duty it shall be to hold it in safe keeping until there shall be an election of a county court clerk for said county of Powell, and then he shall deliver it to said clerk, who shall file and record it in his office; and they shall forthwith transmit another certified copy to the office of the secretary of state, directed to that officer, who shall carefully preserve the same in his office. They shall also designate in each of said districts two suitable persons to act as judges, and one in each to act as clerk, and one to act as sheriff of the election of a circuit court clerk, a county court clerk, a sheriff, an assessor, a surveyor, jailer, coroner, a presiding judge of the county court, a county attorney, and two justices of the peace, and one constable for each district, for said county, which election shall be held on the 2d Monday in May, eighteen hundred and fifty-two. Before entering on their duties respectively, each judge, sheriff, and clerk of the election, so designated, shall take an oath faithfully and impartially to discharge the duties imposed on them by this act. Those who may act as sheriffs aforesaid, shall meet at the house of John Hardwick on the third day after said election, and, after carefully comparing the polls, shall sign two certificates of the election, designating the name of each person having the highest number of votes, and the office to which he is elected, one of which shall be lodged in the hands of Thomas White, who shall cause it to be recorded in the county court clerk's office of Powell, and the other they shall forthwith transmit to the office of the secretary of state, to him directed, where it shall be carefully preserved, whose duty it shall be forthwith to cause commissions to be issued to those persons named in the certificate, to each for the office to which he shall have been elected.

§ 3. Each of said officers shall take an oath, and, where by law required, shall execute a bond according to existing laws in reference to similar officers; and thereupon, their official acts shall be obligatory to all intents and purposes, if done in accordance with the laws of this state. They

shall hold their respective offices until the next regular election of like officers, and until their successors are elected and qualified.

§ 4. That the counties of Montgomery, Clarke, and Estill, before this act takes effect, shall have jurisdiction in all things as though this act had never passed.

§ 5. That the presiding judge of the county court, and the justices of the peace of said county of Powell, a majority of all the justices being present, shall be and they are hereby authorized and required to make a suitable selection of lots or parcels of ground, and purchase the same, in said county, for the erection of public buildings for the seat of justice of said county; or if they prefer it, the said county court may select three, five, or more commissioners to purchase said lots or parcels of ground, under such restrictions as they may impose; and it shall be the duty of said county court to make provision for the payment of the purchase money of said lots or parcels of ground, and cause a suitable courthouse, jail, and such other public buildings as they may think fit, to be erected at the expense of the county; and until such buildings are erected, it shall be their duty to provide some suitable place for holding the county and circuit courts of said county, clerks' offices, and other necessary buildings; this also to be done at the expense of said county. The means for these public conveniences may be raised by a capitation or *ad valorem* tax, or both, on all those persons in said county subject to taxation for county or revenue purposes: *Provided*, that such tax shall not exceed, in any one year, more than one dollar and a half on the head, and fifteen cents on each hundred dollars worth of property in said county subject to taxation for county or state revenue.

§ 6. That Thomas Hart be and he is hereby appointed commissioner, with such assistants as he may deem necessary to employ, to run and mark the boundary lines of said county of Powell, who shall be allowed three dollars per day for his services whilst engaged, and two dollars per day shall be allowed each of the persons he may engage to assist him, payable out of the county levy of said county of Powell, the county court of said county having power to provide for their payment, as specified in the foregoing section.

§ 7. That the said county of Powell shall vote, at elections for members of congress, with the ninth congressional district; for senator in the state legislature, with the thirty-third senatorial district, and for members of the house of representatives, with the county of Montgomery; and the sheriffs of said counties, in all elections, shall compare the polls of said counties as now prescribed by law.

§ 8. That the county court of said county of Powell shall hold its monthly sessions on the third Monday in every

1852.

Jurisdiction in old counties till when.

Presiding judge and justices to provide public buildings.

How paid for.

Tax not to exceed so much.

Lines, by whom run.

How paid.

Where to vote in congressional elections &c.

Terms of court, when held.

1852.

month, and its quarterly sessions on the third Mondays in January, April, July, and October. The terms of its circuit courts shall be held on the fourth Mondays in February and August in each year, by the judge of the tenth circuit court district, to which district it is hereby attached.

Approved January 7, 1852.

CHAPTER 358.

AN ACT to adopt the Revised Statutes.

Take effect July
1, 1852.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the following chapters of the revised statutes of this commonwealth be adopted, and become the law of the land, and take effect on the first of July, 1852.

Other general
statutes repeal-
ed.

§ 2. That all statutes of a general nature, whether of this state, of Virginia, or of England, adopted prior to the first of November, 1851, other than the revised statutes adopted at the last session of the General Assembly, shall stand repealed when the revised statutes take effect, except as follows :

Exceptions.

Vacant lands.

1. All statutes of Virginia or this state in relation to former appropriation of the vacant lands of the commonwealth.

Counties, cities,
asylums, &c.

2. All statutes of mere local relation to any county, city, or town, or relating to the powers, privileges, or franchise of any corporation, and all statutes in relation to the deaf and dumb asylum at Danville, and the institution for the education of the blind at Louisville.

Certain courts.

3. All statutes in relation to the Louisville chancery court, Jefferson county court, or any city, town, or police court, or the officers thereof; and all statutes prescribing the terms of courts; also, the act abolishing the general court.

Code of Prac-
tice.

4. The code of practice in civil cases adopted at the last session of the general assembly, so far as the same is consistent with the revised statutes. The provisions of such code, inconsistent with the revised statutes, are repealed.

Civil, penal,
and criminal
cases.

5. The statutes regulating proceedings in civil, criminal, and penal cases, not repealed by the code of practice or the revised statutes.

No retro active
effect.

§ 3. Such repeal shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any right established, accrued or accruing before the revised statutes take effect; or any prosecution, suit or proceeding that may be pending, except that the proceedings hereafter shall conform, as far as practicable, to the revised statutes, and except that where any penalty, forfeiture, or punishment is mitigated by those statutes, they may be applied, with the consent of the party to be affected, to any judgment thereafter pronounced.

§ 4. The following portions of the charter of any city or town are repealed :

1852.

1. So much thereof as requires a license for or authorizes the levying a tax upon any road wagon or other vehicle for the transportation of produce or merchandise, plying to or from such city or town.

Town licenses.

2. So much thereof as may be construed to dispense with a state license in any case required by the revised statutes.

State licenses.

3. So much thereof as requires a license to or authorizes a tax upon the owner of property grown or raised by himself, or sent by the producer for sale, and sold by him or his carrier at auction or public outcry in any city or town.

Auction licenses.

§ 5. The act concerning the tax on licenses to coffee-houses, &c., in Louisville and Jefferson county, approved 20th March, 1851, is repealed.

Coffee-house licenses, Louisville &c.

CHAPTER I.

ROADS AND PASSWAYS.

ARTICLE I.

§ 1. Applications shall be allowed for opening roads only for the convenience of traveling to the county court house, to a public warehouse, an established town, landing, ferry, mill, lead or iron works, the seat of government, a salt lick, house of public worship, poor-house, coal or iron banks, or to a lock and dam.

Applications to open roads.

§ 2. When any person shall make application to the county court to have a new road opened or a former one altered or discontinued, or to have the privilege of erecting gates across any such road, the court shall appoint two or more fit and able persons to view the ground along which the road is proposed to be conducted; and when an alteration is proposed in a road, to view the route of the old road, and the proposed route.

Viewers.

When it is proposed to discontinue a road, to view the same; and where the proposition is to erect gates across a road, to view the road and the places where it is proposed to erect the gates.

§ 3. Before such view shall take place, the viewers shall be sworn faithfully and impartially to execute the duties assigned them. 1. The viewers may examine other routes than that proposed, and may report in favor of that which they prefer, with their reasons for the preference, describing the route so laid out by metes and bounds, and by courses and distances. 2. They shall report the conveniences and inconveniences which will result as well to individuals as to the public, from the opening of such road, the alteration or discontinuance of a road, or the erection of gates across a road.

Viewers to be sworn, and duties.

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Surveyor may
be sent with
viewers.

§ 4. The viewers shall report the names of the proprietors and tenants of the land over which a road or an alteration in a road is proposed by them to run; the court may direct the surveyor of the county to attend the viewers, and make out and return a map or diagram of the routes viewed, and to report such other facts touching the matter as either party may require.

Proprietors to
be summoned.

§ 5. Upon the report of the viewers, on an application to establish or alter a road, unless the opinion of the court be against the application, it shall award process to summon the proprietors and tenants of the lands over which the viewers may propose the road to run, to show cause, if any, against the same. The summons shall be executed on such of them as may be in the county, and on the agent of such as are not.

Damages may
be fixed without
writ.

§ 6. Upon the return of the process so executed, if the court has enough before it to enable it to fix upon a just compensation to the proprietors and tenants over whose land the road or the alteration of a road is proposed to run, and they are willing to accept what the court deems just, it may determine the matter without a writ of *ad quod damnum*.

When *ad quod
damnum* to is-
sue.

Who jurors;
where to meet.

§ 7. A writ of *ad quod damnum* shall be awarded, if desired by any proprietor or tenant, or if the court see cause for awarding the same; such writ shall command the proper officer to summon and impanel a jury of freeholders of the county, not related to either party, and not residing within one mile of the proposed road, to meet on the land of the proprietors and tenants over which it is proposed for the road, or the alteration in the road, to run, at a certain time and place, of which notice shall be given them by the officer.

Duty of jury.

Damages, how
estimated and
apportioned.

§ 8. The jury, after being duly sworn by the officer, shall view the lands of the proprietors and tenants so named, and ascertain what will be a just compensation to each for the land proposed to be taken, and the additional fencing which will be thereby rendered necessary, and the damage to the residue of the tract beyond the peculiar benefits which will be derived to such residue from the road. If a person claiming damages has only an estate for life or years, and the remainder in fee belongs to another, the jury shall apportion the damages between them.

Jury, where to
meet; may ad-
journ; inquest to
be signed.

§ 9. If the jury shall not be sworn on the day specified, or one shall be sworn and disagree, and be discharged, the officer shall execute the writ on such other day as he may appoint, notice thereof being given to the parties interested. 1. If the inquest cannot be completed in one day, the officer shall adjourn the jury from day to day until its completion. 2. When completed, it shall be signed by the jurors and returned by the officer, together with the writ, to the clerk's office whence it emanated.

§ 10. The court shall, upon the report, inquest, and other evidence, determine whether the road shall be established or altered, as recommended by the viewers; and may, on the report of the viewers and other evidence, determine whether a road shall or not be discontinued, or whether gates may or not be erected across a road; and if the decision be in favor of erecting gates, the court shall fix the site of such gates, and the description of gate to be erected, which, in all cases, shall be done at the cost of the applicant.

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Proceedings on return of inquest.

§ 11. Before any order shall be made appointing viewers to report on a proposition to discontinue a road, or to erect gates across a road, the person applying for such order shall give one month's previous notice of such application, by notice in writing, posted up at the court house door of the county, and at three of the most public places in the vicinity of the road.

Notice of application.

§ 12. The county court may, after the occupant of the premises upon which gates shall be erected across a road has had ten days previous notice of the proceeding, order the surveyor thereof to have the gates repaired, removed, or abolished, (if the public good requires it,) at the expense of the occupier of the land. But the order shall allow the occupant reasonable time to repair, remove, or abolish the gates, and to remove or change his fences, so as not to endanger the crop or other property of the occupant.

Repairing gates.

§ 13. If the occupant shall fail to repair, alter, or abolish the gates as ordered by the court, and the same shall be done by the surveyor under the provisions of the preceding section, and the occupant shall, on demand, refuse to pay the expense thereof, the surveyor of the road shall report the facts to the county court; and it shall, thereupon, enter judgment against such occupant for the expense and costs.

Expenses of repairs.

§ 14. When a road is opened or is altered, the county court shall levy the amount of damages assessed at the next court of claims, and the legal costs of the procedure, and the costs which the defendant shall have expended in his defense; except that when the record shows that the sum allowed by the jury to the defendant is not more than the court has consented to allow him before awarding the writ of *ad quod damnum*, such defendant shall be adjudged to pay the costs occasioned by such writ.

Damages, costs, &c.

§ 15. But the court may open or alter a road on condition that all or a part of the sum required to be paid to the proprietor and tenant, and the cost of procedure shall be paid by the person applying for the same, or on condition that the applicant shall wholly or in part open or alter the road.

Roads opened upon conditions.

§ 16. If the court shall be of the opinion that the road ought not to be opened or altered, the applicant shall be adjudged to pay the costs of the proceeding.

Costs when application refused.

1852.	§ 17. No road shall be ordered to be opened through any lot of land in any town or through any orchard, or burying ground, or buildings, or any yard, without the consent of the owner.
Town lots, burying ground, &c.	
Width of roads.	§ 18. Roads shall be opened thirty feet wide. But the court may, on proper evidence, increase the width of a road near a town to fifty feet, first paying the proprietor of the land over which it shall run a reasonable compensation therefor, or may diminish the width in other places to not less than fifteen feet.
Ditching roads.	§ 19. The county court shall have the power to order each or either side of any road, or a part thereof, to be ditched and kept ditched not exceeding three feet deep, and the dirt from the ditches thrown up in the centre of the road, at the expense, <i>pro rata</i> , according to the list of revenue tax, of the persons living in that road precinct, to be discharged in labor, and the use of implements, carts, and wagons.
Penalty for filling up ditch.	§ 20. Any person who shall willfully fill up such ditch, or any part of it, or place any obstruction therein, shall be liable to be presented and fined not exceeding fifty dollars.
Road precincts.	§ 21. The county court shall divide all the roads in each county into precincts, and as often as may be necessary appoint a surveyor in each precinct, whose duty it shall be to superintend the road therein, and see that the same is cleared and kept in good repair, and ditched and kept ditched on one or both sides, when so ordered by the court.
Duty of surveyor.	No surveyor shall be allowed to resign his place under such appointment, under two years, if he continues to reside in the precinct so long.
Not to resign for two years.	§ 22. All male persons over sixteen and under fifty years of age, who are able to labor, except licensed ministers of the gospel, shall be assigned to work on some road.
Who to work on roads.	§ 23. Every person so assigned to work on a road, who shall fail to attend with proper tools, without a reasonable excuse, when required by the surveyor of his precinct, or who shall fail to labor when in attendance, or to furnish a proper substitute, shall be fined one dollar and twenty-five cents for each day he shall fail to attend, or shall attend and refuse to labor, by warrant in the name of the commonwealth. The fine shall be paid by the owner of slaves, and in the case of an infant by the father, guardian, or master, and be applied to the improvement of the road.
Penalty for failure.	§ 24. The clerk of each county court shall, within ten days after the appointment of a surveyor of a road, deliver a copy of the order to the sheriff of the county, containing a full and complete description of the precinct, and take his receipt therefor. 1. The sheriff, within fifteen days thereafter, shall deliver a copy of the order and the description of the precinct to the surveyor, and return the original to the clerk's office of the circuit court, with the time of the
Duty of clerk and sheriff in relation to surveyors.	

service of the copy indorsed thereon, which indorsement shall be evidence of the facts therein stated. 2. The clerk shall, moreover, fix up in the court house, once in every year, a list of the names of all the surveyors of roads in his county, designating the precinct of each surveyor. 3. Every clerk or sheriff failing to perform the duties prescribed in this section shall be fined two dollars and a half for each neglect.

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§ 25. Each surveyor of a road shall cause to be erected and kept up at the forks or crossing of every public road an index on a post or tree, with plain inscriptions thereon, in large letters, directing to the most noted place to which each of the roads shall lead; the cost of which shall be levied at the next court of claims.

Indexes.

§ 26. When a bridge, or causeway, or culvert shall be necessary on any road, the surveyor shall cause the same to be made, and shall keep it in repair; and for that purpose may cut and take from the lands of any person adjoining, so much timber, earth, and stone as may be necessary. He shall have the same valued by two credible persons, selected by him for that purpose; but no timber, earth, or stone shall be taken from any town lot.

Timber, &c.,
from adjacent
land.

§ 27. When any wheel carriage, plough, draught horse, oxen, gear, or driver shall be necessary for the making, altering, or repairing of any road, bridge, causeway, or culvert, if the surveyor cannot obtain the use of them by contract, any justice of the peace may, by his warrant, empower the surveyor to impress such carriages, plough, draught horse, oxen, gear, and driver, as may be necessary belonging to any person in his precinct. The surveyor shall have the services of such wheel carriage, plough, draught horses, oxen, and driver, as he may impress, valued for the time he uses the same, by two disinterested persons, whose valuation, certified by the surveyor, or his certificate of the amount agreed to be paid by him when he obtains the same by contract, shall entitle the owner to have the same levied at the next court of claims.

When horses,
&c. may be im-
pressed.

§ 28. The county court may exempt any person from working on a road because of infirmity. No person shall be compelled to work on more than one road, except in originally clearing out the same.

Exemptions.

§ 29. No surveyor of a public road shall call out hands to work the road on a muster or an election day, or the first day of the term of any court. 1. Two days previous notice shall be given of the day a hand is required to work on a road. 2. A surveyor may call out all or a part of the hands of his precinct, at any time to remove obstructions in a road at other than the regular times of working the same. 3. Such hands so called on and working shall be exempted for the length of time employed, at the regular time of working the road. 4. The surveyor may direct a

Calling out
hands, &c.

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person liable to work on a road in his precinct to notify the hands, and such person shall be credited with one day's work for such service.

Dividing water
courses.

§ 30. When any water course shall be the dividing line between counties or precincts, the surveyors shall be bound to work to the middle of such water course, removing all obstructions, and shall keep the fords in good passable order.

Owner of ferry.

§ 31. The owner or occupier of a ferry shall keep the roads leading to and from the same between high and low water mark in good repair. 1. But if high water ever extends further than to the top of the first principal bank of the river, then the owner or occupier of the ferry shall only keep the roads leading from the same in repair to the top of such bank. 2. The owner or occupier of a ferry shall be subject to the same fines for neglecting his duty under this section that the surveyor of a road is subject to in a like case.

When county to
build bridge,
&c.

§ 32. When a bridge or causeway shall be necessary on a road, and the expense of erecting the same is too great to impose on the precinct, the county court of the county shall have the same erected, and levy the cost thereof on the county.

Bridge, &c
between two
counties.

§ 33. When the county court of any county shall deem it advisable to erect a bridge or causeway over any place between that and an adjoining county, the court shall appoint a commissioner, and notify the court of the adjoining county thereof, and request the latter to appoint a like commissioner; and it shall be the duty of the court so requested to appoint such commissioner. The persons so appointed shall meet at the place proposed for erecting the bridge or causeway, and agree on a plan for the same, and contract for the erection thereof, and each of said county courts shall levy one-half of the cost of such work on its county.

County refusing
mandamus to
show cause.

§ 34. When the county court of one county shall think it expedient to build a bridge or causeway, and shall appoint a commissioner on its part as provided in the preceding section, and the court of the adjoining county shall refuse to appoint a commissioner, or when the county court of one county shall deem it necessary to open a road to the county line for the convenience of traveling to some public place in another, and the county court of such other county shall refuse to continue the road through such county, the circuit court of the county so refusing may issue a writ of mandamus to the county court, requiring it to show cause why an order shall not be entered up directing the appointment of the commissioner, and the erection of such bridge or causeway, or the opening of the road.

Peremptory
mandamus.

§ 35. When the mandamus is returned, the circuit court shall hear and consider such evidence touching the matter

as either party may adduce, and shall either dismiss the proceeding or award a peremptory mandamus, as may seem proper.

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§ 36. When a public road crosses a dam, race, or pier head, the owner or occupier thereof shall constantly keep the same in repair at least twelve feet wide at the top, through the whole length thereof, and keep a bridge across the race or pier head of like width, with strong rails on each side of the pier head, flood gates, or any waste cut through or around the dam, under the penalty of one dollar and fifty cents for every twenty-four hours. But when a mill dam or pier head shall be carried away by flood, or otherwise be destroyed, without the fault of the owner or occupier, he shall not be liable to such penalty until one month after the dam and pier head shall be rebuilt or repaired.

Owners of pier-heads, dams, &c.

§ 37. Any person who shall fell a tree into a public road, or into any stream of water above a public bridge over the stream, and shall not remove the same within forty-eight hours, or shall cut, pull up, or destroy or deface any stone, or post, or finger board, erected for the direction of travelers, or the indexes, or the inscriptions thereon, he or his parent, if an infant, or his owner, if a slave, or his master, if an apprentice, shall pay a fine of ten dollars for every such offense.

Felling tree across road, &c

§ 38. When a fence shall be erected across a public road, the owner or tenant of the land on which the fence shall be erected, shall pay a fine of one dollar for every twenty-four hours the bridge shall continue across the road.

Erecting fence across road.

§ 39. When the surveyor of a public road shall fail to perform his duty, he shall be fined not less than two dollars and fifty cents, nor more than ten dollars.

Surveyor, failure of duty.

§ 40. No appeal or writ of error shall lie to the court of appeals from the decision of a county court ordering a new road to be opened, or refusing such order, or ordering an alteration in a road, or refusing the same, or discontinuing a road, or refusing such discontinuance, allowing gates to be erected across a road, or refusing to allow the same, or abolishing such gates. 1. But in all such cases the party aggrieved may prosecute an appeal or writ of error within one year to the circuit court of the county, which latter court shall have jurisdiction without a jury, to try the law and facts of the case. 2. And from the decision of the circuit court, either party may prosecute an appeal or writ of error to the court of appeals, and the latter court shall have jurisdiction only of matters of law arising on the record of such case.

Writs of error and appeals.

1852.

ARTICLE II.

Passways.

- § 1. Whenever it shall appear to a county court that it is absolutely necessary for a citizen to have a private passway over the land of one or more persons in the county, to enable him to attend courts, elections, a meeting house, a mill, or a warehouse, the court shall appoint viewers, as in case of a road; who being first sworn to discharge their duties faithfully and impartially, shall go upon the lands of the person through which the passway is proposed, whether arable or not, and shall report to the court whether or not a private passway is absolutely necessary to the applicant for the purpose aforesaid; and if favorable to the passway, they shall in their report designate the exact route for the same, by metes and bounds, course and distance, and the width thereof, which in no case shall exceed fifteen feet.
- § 2. The applicant for viewers shall give the persons through whose land the passway is proposed, ten days previous notice of the intended application.
- § 3. The viewers shall make out a report of their proceedings and sign the same, and deliver a copy thereof to the proprietors of the lands over which the proposed passway is to run, ten days before the court acts thereon.
- § 4. When the report of the viewers is returned to the court, each proprietor may apply for and obtain a writ of *ad quod damnum*, upon the return of which, or if no such writ be applied for, the court may proceed to establish a passway on the principles of this chapter, or to refuse the same, as to them shall seem proper.
- § 5. No passway shall be established without the consent of the owners, until a writ of *ad quod damnum* shall issue as in case of a road, and the damages to the owner of the land shall be assessed, which damages, and the costs of the whole proceeding, shall be paid by the applicant before the passway shall be established.
- § 6. Any gates that shall become necessary by the establishment of a passway, shall be erected and kept up at the expense of the applicant for the passway.
- § 7. Any person who shall put any obstructions in a passway, or shall prop open, pull down, injure or leave open a gate erected across the same, shall, if a free person, be fined four dollars, and if a slave, be whipped by order of a justice of the peace ten lashes; the fine to be laid out in repairing the passway or gate.
- § 8. When the proprietor of lands over which a passway may be established, shall wish to change the same, he shall give the applicant for the passway ten days' previous notice, and may thereupon apply to the county court; and the court shall appoint viewers to view the proposed change, who shall be sworn as on original applications, and shall

Private passways.

Viewers.

Notice of application.

Viewers report.

Writ of *ad quod damnum*.

Damages and costs.

Gates.

Obstructing passways injuring gates, &c.

How passways may be changed.

go on the grounds and report the conveniencies and inoon-
veniencies of making the change. 1. Upon the return of
the report the court shall, as to them may seem proper,
make the proposed change or not. 2. But before such
change shall take effect, the proprietor shall open the new
route, and remove and put up the gates across the same, at
his own expense, and pay the other costs of the procedure.

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§ 9. Passways may be discontinued by the court in the
same manner as roads.

How discon-
tinued.

§ 10. The law regulating appeals and writs of error
in road cases, shall apply to and govern proceedings con-
cerning passways.

Appeals and
writs of error.

§ 11. No passway shall be established through any town
lot, orchard, burying ground, buildings, or yard, without the
consent of the owner.

Town lots, bury-
ing grounds, &c.

CHAPTER II.

TAVERNS, TIPLING HOUSES, &c.

ARTICLE I.

Taverns.

§ 1. Any person who shall obtain a license therefor shall
be deemed a tavern keeper. Before any such license shall
be granted, the person applying for the same shall pay to
the clerk of the court the tax thereon.

Who a tavern
keeper.

Tax to be pre-
paid.

§ 2. The county courts shall have power to grant licenses
to keep a tavern in their respective counties, for one year
from the date of the grant, and until the next succeeding
county court. The order granting the license shall state
to whom the same is granted, and the place where the
tavern is to be kept, and the period for which the license is
granted.

County court
may license.

§ 3. No county court shall grant a license to any person
to keep a tavern, who shall be of bad character, or who
does not keep an orderly house, nor unless the court shall
believe the applicant is prepared with houses, stabling,
bedding, and provender, to keep an orderly law-abiding ta-
vern. The court shall also be satisfied that the keeping of
a tavern at the place proposed is necessary for the accom-
modation of the public.

To whom not to
be granted.

§ 4. No tavern license shall be granted to any person of
color, nor shall any such license be granted to a white per-
son, until he shall take an oath, in open court, that he in
good faith intends to keep a tavern for the accommodation
of the public, and that he will not, during the period his li-
cense remains in force, sell or give, or cause to be sold or
given, to any slave of which he is not the owner, and pos-
sessor, or which is not in his employ by contract with the
person having the rightful authority to hire the slave, any

Not to person of
color.

Oath of appli-
cant.

1852.

wine, brandy, whisky, or any other spirituous liquor, or a mixture thereof, without an order from the owner or other person having authority over such slave.

Bond to be given.

§ 5. Every person who shall obtain a license to keep a tavern, shall, at the time the same is granted, enter into an obligation in court, to the commonwealth, in substance as follows :

Whereas, A B has obtained a license to keep a tavern at _____, in the county of _____. Now we, A B, principal, and C D, his surety, do hereby covenant and agree, that the said A B shall continually find and provide in said tavern good wholesome cleanly lodging and diet for travelers, and stabling and provender or pasturage for horses or mules, during the period the license remains in force, and that he will not suffer any gaming in his house or on his premises, and will not suffer any person to tipple or drink more than is necessary in his house or on his premises, or at any time suffer any scandalous or disorderly behavior in his house or on his premises. Given under our hands this _____ day of _____.

Duty of tavern-keeper.

§ 6. Every person licensed to keep a tavern, shall constantly provide the same with good wholesome cleanly lodging and diet for travelers and their servants, and stabling and provender or pasturage for their horses and mules.

Proceedings against, for failure.

§ 7. When a tavern keeper shall be presented for a breach of his obligation, or on the information of any person, the court may hear and determine the matter in a summary way by a jury ; and if the jury find that the tavern keeper has been guilty of a breach of his obligation, the court shall give judgment against him and his surety for the sum of three hundred dollars ; they having first had ten days notice of the procedure ; and no license shall be granted to such tavern keeper thereafter.

How taverns suppressed.

§ 8. Any judge of the county court, upon his own view or knowledge, or upon the information, on oath, of two or more credible witnesses, may suppress any tavern in his county until the next succeeding county court, when the offenses enumerated in this chapter, and contrary to his obligations, may be inquired into by the court ; and if the court shall, on such inquiry, adjudge such tavern keeper guilty of any of said offenses, or a breach of his obligation, it shall enter up an order disabling him from keeping tavern thereafter. But if the court shall adjudge the tavern keeper not guilty, it shall enter an order restoring his right to keep tavern under his license.

Trustees to give information.

§ 9. It shall be the duty of every trustee of a town, either upon his own knowledge, or on the information of a credible person, of any offense committed by a tavern keeper under the provisions of this act, within the town of which he is a trustee, to make the same known to the judge of the county court, who shall cause the alleged offender to

be summoned to appear before him, at a time and place designated, to show cause why his license shall not be suspended until the next county court. 1. At the time fixed, the judge of the county court may hear and decide the case, and enter an order of suspension or acquittal, as shall seem just and right. 2. If he shall suspend the license of the tavern keeper, he shall forthwith return his proceedings to the county court, which court shall, at its next term, hear and decide the case.

§ 10. An appeal or writ of error may be prosecuted by the county attorney to the circuit court, or by the defendant, from any decision of the county court under this act, but the same, until reversed in the circuit court, shall not suspend the decision of the county court. In such cases the circuit court shall be judges of the law and fact, and no jury shall be necessary.

§ 11. Any person who shall keep a tavern or sell wine or spirituous liquor, or the mixture thereof, after his license is suppressed or suspended, or after a disabling order is entered as provided in this article, until such order is reversed or set aside, shall be adjudged guilty of keeping a tippling house and fined accordingly.

§ 12. A tavern keeper whose license shall be suspended a second time shall not be reinstated in his license. Nor shall another license be granted to him for twelve months after the last suspension.

§ 13. The county court shall, once in every year, fix the rates and prices to be paid at taverns within the county for wine, liquors, lodging, diet, stabling, provender and pasturage; any county court failing herein shall be fined thirty dollars on the presentment of a grand jury.

§ 14. Every tavern keeper shall, within one month after the rates are fixed by the court, obtain from the clerk thereof a fair table of such rates and set up the same in the public room of his tavern house, and keep the same up, under the penalty of seventy-five dollars, to be recovered on the presentment of a grand jury.

§ 15. Any tavern keeper who shall demand and take any greater price for any one or all of the items in the rates fixed by the court, shall forfeit and pay five dollars.

§ 16. The clerk of each county court shall make out a list of every licensed tavern keeper in his county, with the date thereof, and deliver the same to the clerk of the circuit court of his county at least two days preceding each term of that court, which shall be kept in the office of the latter clerk, and laid before the grand jury for their information. The clerk of either court failing to discharge the duty herein prescribed shall be fined twenty dollars.

§ 17. Distillers are allowed to obtain license to sell spirituous liquors, in the same way, and under the same terms, restrictions, and penalties as merchants.

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Proceedings thereon.

Appeal or writ of error.

Selling after suppression.

Second suspension.

Rates of charges.

Table of rates to be set up.

Fine for exceeding rates.

List of tavern keepers.

Distillers.

1852.

ARTICLE II.

Licensed Merchant.

Merchant.

§ 1. A merchant may sell at his store house, to be taken off and drank elsewhere than on his premises or adjacent thereto, any wine, spirituous liquors, or the mixture thereof, in any quantity not less than a quart. But before he shall so sell he shall obtain from the county court a license therefor.

ARTICLE III.

Private Entertainment.

Who may recover against guest.

§ 1. Any person other than the keeper of a tavern or house of private entertainment, who shall entertain in his house another, or furnish him with diet or storage for his goods, not making an agreement for compensation therefor, shall not recover any thing against the person so entertained or furnished with diet or storage, or against his estate, but the person so furnishing another shall be considered as doing the same of courtesy.

Who keeper of private entertainment.

§ 2. Any person not a tavern keeper who shall furnish for compensation lodging or diet to travelers, or to one boarding in his house, or provender in his stable or on his land for horses or mules, shall be deemed the keeper of a house of private entertainment.

No license.

§ 3. No license shall be required to keep a house of private entertainment.

ARTICLE IV.

Tippling Houses.

Who guilty of keeping tippling house.

§ 1. Any person, unless he shall have a license therefor, who shall sell in any quantity wine or spirituous liquors, or the mixture of either, in any house, to be drunk therein, or on or adjacent to the premises where sold, or shall sell the same, and it shall be so drunk, shall be deemed guilty of keeping a tippling house, and fined the sum of sixty dollars.

Fine therefor.

§ 2. If any person shall keep a tippling house for three months at one time, he shall be liable to a fine of two hundred dollars, to be recovered by the presentment of a grand jury.

Second offense.

§ 3. Twice selling in or at the same house, under the circumstances named in the first section of this article, shall be evidence of the keeping of a tippling house. If on the trial of a presentment for keeping a tippling house, the jury find the defendant not guilty of keeping such house, they may, if the evidence will authorize the same, find him guilty of retailing, as provided in the next article of this chapter, and he shall be fined accordingly.

Defendant may be found guilty of retailing.

ARTICLE V.

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Miscellaneous matters.

§ 1. Any person who shall, without lawful authority, directly or indirectly, sell by retail in any quantity whatever, to be drank at the place of sale, or on the same premises, or adjacent thereto, or sell and the same shall be so drunk, any wine or spirituous liquors, or any mixture therewith, in any booth, arbor, boat, stall, float, public square, market house, or upon a race field, or any other open place whatsoever, shall be fined twenty dollars for each and every offense, on the presentment of a grand jury.

Retailing without license.

§ 2. No person shall vend or buy within one mile of any church, meeting house, or other place of public worship, during divine service, any wine or spirituous liquor, or a mixture therewith, to be drunk or which shall be drunk within that distance of such worship, except in houses authorized by law. Any person offending herein, and each person so drinking, shall be fined ten dollars for each and every such offense.

Near place of worship.

§ 3. Any person presented for keeping a tippling house, or for selling by retail, and acquitted thereof, may, on the same trial, be found guilty and fined under the preceding sections, if the evidence given on the trial shows that the defendant is guilty of the offense therein described.

May be convicted on trial for tippling house.

§ 4. No prosecutor shall be necessary under any of the provisions of this chapter. Presentments may be made under it on the information of any one of the grand jury. Each circuit court shall at every term give it in special charge to the grand jury.

No prosecutor necessary.

Chapter to be given to grand jury.

CHAPTER III.

HEIRS AND DEVISEES.

ARTICLE I.

§ 1. When a patent has issued or shall issue, or a deed shall be made to a person who is dead at the issuing of the patent, or the making of the deed, the heirs of such patentee shall take, hold, and enjoy the title to the estate so patented or conveyed, as if such patent had issued or deed had been made to such heirs by name.

When patentee or alienee dead.

ARTICLE II.

Devisees.

§ 1. When a devise is made to several as a class, or as tenants in common, or as joint tenants, and one or more of the devisees shall die before the testator, and another or others shall survive the testator, the share or shares of such as so die shall go to his or their descendants, if any ;

Death of devisee before testator.

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if none, to the surviving devisees, unless a different disposition is made by the devisor.

When "grand children" embraces children.

A devise to children embraces grand children when there are no children; and no other construction will give effect to the devise.

Specific legacy.

§ 2. If no time is fixed for the payment of a specific pecuniary legacy, it shall be payable one year after the testator's death, and carry interest after due.

Lien for legacy charged on devise.

§ 3. When any property shall be devised subject to or upon the payment by the devisee to another of a sum of money, or his doing some other thing, the latter shall have a lien on the legacy for the sum so to be paid, or for the value of the thing to be done.

Devisee may disclaim.

§ 4. A devisee may disclaim by deed, acknowledged or proved and left for record in the clerk's office of the court in which probate is made, within a year after notice of the probate.

ARTICLE III.

Ademption.

Conversion not ademption, unless intended.

§ 1. The conversion, in whole or in part, of money or property, or the proceeds of property, devised to one of the testator's heirs, into other property or thing, with or without the assent of the testator, shall not be an ademption of the legacy or devise, unless the testator so intended, but the devisee shall have and receive the value of such devise, unless a contrary intention on the part of the testator appear from the will, or by parol or other evidence.

Nor removal.

§ 2. The removal of property devised shall not operate as an ademption unless a contrary intention on the part of the testator is manifested, in like manner.

CHAPTER IV.

PROCESSIONING OF LAND.

Laws repealed.

§ 1. All laws providing for the appointment of special commissioners to procession lands are hereby repealed, except such as shall be selected by the parties.

County court to appoint processioners.

§ 2. The county court of each county shall appoint for the term of four years, three discreet qualified persons in the county processioners for the county, any two of whom shall constitute a quorum to do business. The court shall have the power to fill vacancies, and to remove any of the processioners, and appoint others.

Oath.

Before they proceed to act they shall each take an oath to discharge the duties of his office to the best of his skill and judgment.

Re-marking old lines.

§ 3. The processioners shall, on the application of any person producing his title papers, go around his land, or such part as he may desire, and re-mark the same, taking

care that the re-marks are on the old lines ; and when they find the corner trees, posts, or stones, or any of them removed, defaced, or rotted down, the processioners shall mark new corner trees, or place stones or posts properly marked where the old corners stood.

The processioners shall report to the county court the land they have processioned, the lands of the persons it adjoins, and what alterations of corner trees, posts or stones have been made or added.

§ 4. The processioners, or any two or more persons selected by the parties and appointed by the court, may, on the application of persons whose lands adjoin, go on their dividing lines, and by their consent mark new corner trees, set up new stones or posts, ascertain the length of the lines, and make a report to the county court, in which the names of the parties, the new corner trees marked, or stones or posts set up, and the length of the lines, shall be stated.

1. The consent of the parties to the acts of the processioners, or persons selected, shall in such cases be indorsed on the report, and signed by such parties and attested by one or more of the processioners or persons selected, or the proceedings shall not bind them.

2. In all contests as to boundary, such reports shall be conclusive evidence between the parties and all persons claiming through or under them ; except,

3. Where such report shall be obtained by fraud or misrepresentation.

§ 5. The surveyor of the county, or some person appointed to survey by the court, shall in all cases attend the processioners or persons selected by the parties, and make out a plat and certificate of the land of the applicant or applicants, noting what is done, which shall be returned with and be considered a part of the processioners' report.

The processioners and surveyor, in establishing lines and corners, may make proper allowance for the variation of the needle.

§ 6. The processioners may, at the request of any party interested, take depositions as to the proper position of any corner or line, which depositions shall be returned with the processioners' report.

1. The opposite party may in like manner take testimony, at the same or another time.

2. The processioners or persons so selected by the parties, or any one of them, shall have power to administer an oath touching any matter within the scope of their duties.

§ 7. Any person desiring to have his land processioned, or to take depositions as herein allowed, may give ten days' notice to any person interested; or his agent or attorney, or if an infant, lunatic, or idiot, to his guardian or

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Report.

New corners by consent.

Consent to be indorsed on report.

Reports evidence.

Surveyor to attend processioners.

Variation of needle.

Depositions.

Processioners may administer oath.

Notice to be given.

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How, to non-residents.

committee, of the time and place when and where he will procure the processioners to convene.

1. If the party interested does not reside in the state, and has no known agent therein, such notice shall be published once per week for one month prior to the convention of such processioners in some authorized newspaper, and posted up for the same period on the court house door of the county.

Affidavit of printer.

2. The printer of the paper in which the notice shall be published shall make affidavit of the fact of publication, which, with the notice, shall be laid before the processioners before they act, and returned with their proceedings.

Proof of service of notice.

3. Affidavit of a disinterested person of the service of a notice on persons interested, or their agents, and of the fact of such agency, shall in like manner be made and laid before the processioners, and returned with their report.

Land lying in several counties.

§ 8. If any person shall own a tract of land which, in part, lies in two or more adjoining counties, the processioners of that county in which the greater part thereof lies may procession the whole tract.

Reports, &c., to be recorded.

§ 9. The reports of processioners, the plats and certificates of the surveyor, notices and affidavits, and depositions taken by the processioners, shall, when returned to the county court, be recorded in a book kept for that purpose, and filed away and carefully kept by the clerk, and shall be *prima facie* evidence against and between the parties interested, and others claiming through or under them.

Prima facie evidence.

CHAPTER V.

COSTS.

Poor person.

§ 1. A poor person residing in this state may be allowed by a court to sue or defend a suit therein, without paying fees or costs, whereupon he shall have any counsel that the court may assign him; and from all officers all needful services and process, without any fees to them therefor, except what may be included in the costs recovered from the opposite party.

Law, how construed.

§ 2. The law of costs shall not be interpreted as penal laws.

Non-residents to give surety.

§ 3. When a non-resident or any corporation, except a bank incorporated by this state, shall institute a suit or action in any court or before any justice of the peace, whether suing in his own right or as the representative of another, he shall, before the commencement thereof, give an obligation, with good security resident in the state, in the clerk's office of the court, or in the office of the justice of the peace, as the case may be, payable to the defendant, binding the plaintiff to pay all costs that may accrue in

consequence thereof, either to the opposite party or to any of the officers of such justice of the peace or court.

§ 4. When any resident of this state, in his own right or in his representative character, shall institute a suit or action in any court, or before any justice of the peace, and shall, pending such suit or action, remove from the state, such person shall give good surety for the costs of the suit, as provided in the preceding section.

§ 5. If an action or suit shall be instituted by any person without previously giving an obligation with surety, as provided in the section next preceding the last, it shall not be a ground for abating the suit or action, if such surety be given on or before the calling of the cause for trial, at the first term of the court after the institution thereof. If the plaintiff fail to give surety for costs, as required by the provisions of this chapter, his suit shall be dismissed.

§ 6. When the commonwealth shall be unsuccessful in any case prosecuted in her own right, no judgment for costs shall be rendered for the opposite party.

§ 7. When a party to a suit or action shall pray for and obtain a continuance thereof, he shall pay the costs accruing at that term of the court; and the costs of the opposite party shall accordingly be adjudged to him, and may be coerced by execution.

§ 8. When a plaintiff in any suit or action shall be nonsuited, he shall be adjudged to pay the defendant his costs, and two dollars besides; and if the defendant's abode be more than twenty-five miles from the place of holding the court, the plaintiff shall also be adjudged to pay the defendant seven cents for each mile over twenty-five.

§ 9. When a judgment shall be arrested, the party committing the error shall be adjudged to pay the costs occasioned thereby.

§ 10. When the pleadings in any suit or action shall be amended by either party, and such amendment shall be the ground of a continuance, the party making such amendment, shall pay the costs of the term.

§ 11. When a witness shall be attached for alleged contempt in a civil case, he shall pay the costs of such attachment, unless it shall appear that he was wholly free from neglect or blame. The party moving the attachment, or the commonwealth, may, on the trial, introduce evidence. If the witness appear free from neglect or blame, the party moving the attachment shall be adjudged to pay the costs thereof.

§ 12. The defendant, in all prosecutions for a misdemeanor, shall, if convicted, be adjudged to pay the costs of the proceedings against him.

§ 13. The party succeeding in any civil suit or action, on the merits or otherwise, shall recover costs, unless differently provided in this chapter. In actions at law, if the

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Plaintiff removing to give surety.

When surety may be given.

Suit dismissed for failure.

No costs against commonwealth.

Costs on continuance.

On nonsuit.

On arrest of judgment.

On amendment and continuance.

On attachment of witness.

In prosecutions for misdemeanors.

In civil suits.

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plaintiff shall succeed against part of the defendants, and not against others, he shall recover his costs from the former, and the latter shall recover their costs against the plaintiff.

In chancery.

§ 14. In chancery suits, the party succeeding, on the merits or otherwise, shall recover his costs, except against nominal defendants. But when the complainant succeeds against a part of the defendants, he shall recover his costs against such only. Defendants who are necessary nominal parties to a suit, and against whom the complainant does not succeed, shall not recover their costs, but each party shall be decreed to pay his own costs. Defendants who are not necessary parties to a suit in chancery, shall recover their costs. But in chancery suits between parsoners, tenants in common, joint tenants, and for settling the distribution and division of deceased persons' estates, suits to settle partnerships, and to settle or enforce trusts, courts shall have a judicial discretion in decreeing or not decreeing costs.

Garnishees.

§ 15. Garnishees in common law or chancery cases who make only a just defense shall not be adjudged to pay costs, but shall be allowed the legal costs properly expended in their defense.

On appeals and writs of error.

§ 16. The party prosecuting an appeal or writ of error, to the court of appeals, shall recover his costs on the same if he succeed in whole or in part in reversing the decision of the inferior court. If the decision of the inferior court be affirmed, the appellee or defendant in the appellate court shall recover his costs. If the decision of the inferior court be reversed as to part of the appellees or defendants, and affirmed as to others, the appellant or plaintiff in error shall recover his costs against the defendants in error as to whom the case shall be reversed, and shall be adjudged to pay the defendants in error, as to whom it is affirmed, their costs.

On appeals, &c. in circuit court.

§ 17. When an appeal or writ of error or traverse shall be prosecuted in the circuit court to a judgment of the county court or a justice of the peace, or in the county court from the judgment of a justice of the peace, and the defendant, before the appeal or traverse is taken, shall tender to the plaintiff the amount he is willing to pay, and the same shall be refused, and the amount recovered upon the appeal shall not exceed the amount tendered, the original plaintiff, if he is the appellant or plaintiff in error or traverser, shall not recover his costs, but shall pay the costs in the court trying the appeal or writ of error or traverse; but if the decision on such appeal, writ of error, or traverse is more favorable to the party prosecuting the same than the decision of the inferior tribunal, he shall recover his costs on the same if no such tender be made, or not enough shall be tendered.

§ 18. If the party appealing or prosecuting a writ of er-

ror or traverse from the judgment of the county court or of a justice of the peace to the circuit court, or from a judgment of a justice of the peace to the county court, shall succeed in part in the same, but shall not succeed as to the whole controversy, the costs in the county court or before the justice shall be adjudged to be paid as if the same decision had been given there which the circuit or county court shall give on the appeal, writ of error, or traverse.

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When party succeed in part.

§ 19. A personal representative, plaintiff, or defendant in any case shall, if unsuccessful, be adjudged to pay costs as other litigants. The judgment or decree for costs in such case shall only be against the assets which have or may come to his hands.

Personal representatives.

§ 20. A prosecutor, next friend, or relator, shall, upon the failure of the prosecution, suit, or action, be adjudged to pay to the person prosecuted or sued his costs. If the plaintiff succeed, the prosecutor, next friend, or relator shall be adjudged his costs against the defendant.

Prosecutor, next friend, &c.

§ 21. When an injunction shall be dissolved, the plaintiff shall be decreed to pay the costs occasioned by the same.

On injunctions.

§ 22. When a party to a suit or action shall obtain further time to plead or to amend his pleadings, the court shall adjudge him to pay the costs occasioned thereby.

Party obtaining further time, &c.

§ 23. Any person applying for a passway, or to remove a passway, whether successful or not, shall pay the costs of the procedure in the inferior court.

Application for passway, &c.
§ 143.

§ 24. When a party to a suit or action shall give the opposite party notice to take a deposition, and shall fail to take the same accordingly, unless such failure be on account of the non-attendance of the witness, not occasioned by the party giving the notice, or some other unavoidable cause, the party notified, if he shall attend himself, or by agent, agreeable to the notice, shall be entitled to one dollar per day for each day he may attend under such notice, and to six cents per mile for every mile that he shall necessarily travel in going to and returning from the place designated to take the deposition, to be allowed by the court where the suit shall be pending, and for which execution may issue.

Failure to attend to take depositions.

§ 25. Any person who shall take steps in any court to remove any officer from office, and from any cause fail in so doing, shall pay such officer his costs expended in the defense of such procedure. If the officer shall be removed by such procedure, then the person instituting and carrying on the same shall be adjudged his costs against such officer.

On proceedings to remove officer.

§ 26. When by any procedure a cause shall be taken from one tribunal to another, and the latter shall give final judgment, or decree, and proceed to execute the same with-

Costs adjudged by court giving final decisions.

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out remanding the cause to the inferior tribunal, the court rendering such final decision shall adjudge costs agreeable to the provisions of this chapter, and issue execution therefor.

Taxation of
costs.

§ 27. The clerk of each court shall, after the termination of a suit or action, or any other procedure therein, tax the costs of the successful party on a paper filed among the other papers in the cause, for the inspection of the parties, which taxation shall be subject to revision and correction by the court, by rule or motion, due notice thereof being first given.

Continuance
at cost of party.

§ 28. When a cause is continued at the cost of either party, a like taxation of the costs of that term shall take place and be subject to the same revision and correction.

Motion or rule.

§ 29. A motion or rule of court shall be considered an action, but when made in a pending suit or action, an attorney's fee shall not be paid or recovered as a part of the costs of the motion or rule.

Strike for the
benefit of another.

§ 30. Where a suit or action in the name of one person for the benefit of any other, and that fact appears on the record, if there be a judgment or decree for the defendant's costs, it shall be against the plaintiff and the person for whose benefit such suit is prosecuted. In such suits or actions the officers' and other fees shall be charged to and paid by the plaintiff and the person for whose benefit the same is prosecuted.

New trial.

§ 31. The party to whom a new trial is granted upon the payment of costs shall, previous to such new trial, pay the costs of the former trial. If he fail to pay the same at or before the time the cause is reached for trial at the next term of the court after the new trial is granted, the court may, on the motion of the opposite party, set aside the order granting a new trial, and enter judgment on the verdict rendered in the case.

Alimony and
divorce.

§ 32. In suits for alimony and divorce the husband shall pay the costs of each party, unless it shall be made to appear in the cause that the wife is in fault, and has ample estate to pay the same.

When either
party insolvent.

§ 33. Whenever either party to a suit or action in any court shall be insolvent or in doubtful circumstances, and such party shall recover a judgment or decree for the costs of the suit or action, or for a continuance thereof, the court, on motion of any person interested, shall indorse the costs so recovered, or so much thereof as may be necessary, for the benefit of the officers and witnesses who shall have rendered service in the case, so far as the same are embraced in the judgment or decree then rendered, and thereupon they shall be entitled to so much of the costs as will satisfy and pay such of their respective fees. The indorsement shall secure the officers and witnesses a preference to all transfers or sets-off. The indorsement shall be copied

on the execution that issues for the costs, and shall show what part each officer and witness is entitled to, and authorize each to receive the amount so indorsed when the costs are collected.

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§ 34. In proceedings by habeas corpus, the judge or court before whom the same shall be returned may award costs to be paid, including pay for transporting the prisoner, as shall seem right.

Habeas corpus.

§ 35. In the settlement of insolvent estates, a party who shall present a claim against the estate of the deceased which is not allowed shall pay the costs occasioned thereby, except an attorney's fee. No attorney's fee shall be allowed any claimant in any case against an insolvent estate, unless the same shall be contested before a jury, and be allowed on final decision.

Settlement of insolvent estate.

§ 36. The clerk shall tax one attorney's fee only in the bill of costs of the successful party at the termination of the cause, and the tax on process and all fees of officers which the party appears to be chargeable with in the case, including postage on depositions. One copy of any of the pleadings or exhibits obtained shall be taxed as costs, and the costs of any copies made exhibits; also, the allowance to witnesses, which the court may, by order, confine to not exceeding two, to any one point.

Attorney's fees.

Costs of copies.

Allowance to witnesses.

§ 37. The provisions of this chapter shall apply to justices' courts and other like tribunals.

Applies to justices' courts.

CHAPTER VI.

ESCHEATS AND ESCHEATORS.

ARTICLE I.

§ 1. That part of the estates not disposed of by will of persons who have died or may hereafter die in this commonwealth without heirs or distributees entitled to the same, shall vest in the commonwealth without office found, subject to the debts and liabilities of the decedent.

Failure of heirs, &c.

§ 2. That part of the estates of such persons who have died or may hereafter die which has been or shall hereafter be devised to any person, who, or any heir or distributee or devisee of his or of the testator, has not claimed the same or shall not claim the same within five years after such death, shall, in like manner, vest in the commonwealth.

Estate not claimed in five years.

§ 3. The personal representatives of persons named in the first section, whose estates or a part of whose estates are not disposed of by will, shall settle their accounts within one year after qualifying as such, and pay over to the treasurer of the commonwealth the proceeds of the personalty, first deducting the proper legal liabilities of the estate.

Duty of personal representative.

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When accounts
not settl'd with-
in one year.

Real estate not
devised to be
rented.

Accounts re-
turned to audit-
or.

1. If the whole personal estate cannot be settled and the accounts closed within a year, the settlement shall be made and the proceeds paid over to the treasurer as far as practicable, and the residue shall be so settled and paid over as soon thereafter as it can be properly done.

2. The personal representative shall take possession of the surplus real estate of the deceased not disposed of by his will, and rent out the same from year to year until it is otherwise legally disposed of, and pay the net proceeds into the treasury annually.

3. He shall also make out and transmit to the auditor of public accounts a description of the quantity, quality, and value of such real estate, and its probable annual profits.

ARTICLE II.

Agents to be appointed.

Agents to be
appointed.

To give bond.

To take pos-
session.

To settle with
personal repre-
sentatives.

To report to
auditor.

To sell estate.

To pay into
treasury.

Auditor may
remove.

Legacies not
claimed for five
years.

§ 1. The auditor of public accounts shall appoint an agent for the commonwealth in each county.

1. Before the agent so appointed shall enter on the duties of his office, he must give bond and good surety, to be approved by the county court of his county, for the faithful discharge of his duty; a certified copy of which bond shall be sent by the clerk of the court to the auditor.

2. It shall be the duty of the agent to take into his possession and manage estates, and the profits thereof, which may be devised and not claimed within five years, as provided for in the first article of this chapter.

3. Also, to bring the personal representatives to a settlement and to an account for all such estates as are therein provided for.

4. Also, to make report to the auditor of the amount, quantity, quality, and value of such estates, and of the annual profits thereof.

5. He shall also, under written directions from the auditor of public accounts, sell any estate or property which may so come to his possession, on such credit as the auditor may direct, taking good security for the payment of the sale money; which sales he shall report in due time to the auditor.

6. He shall also pay all money into the public treasury which comes to his hands as agent.

§ 2. The auditor may, at any time remove an agent and appoint another, or fill any vacancy in that office.

§ 3. If any devisee or his heirs, devisee, or distributee, or any heir or distributee of the testator has failed, or shall hereafter fail, for five years to claim his legacy, as provided for in the second section of this chapter, the personal representative of such testator, or other person having the same in possession, shall, after deducting the legal liabilities thereon, pay and deliver over such legacy, whether the same be real or personal estate, and the net profits there-

of, to the agent of the commonwealth for the use of the treasury.

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ARTICLE III.

Moneys to be paid into the Treasury, &c.

§ 1. The returns made to the auditor by personal representatives and agents shall be, biennially, reported by him to the general assembly.

Auditor to report to general assembly.

§ 2. Suits in the name of the commonwealth, to settle or recover such estates, against any person in possession of or accountable for the same, may be instituted by the direction of the auditor.

May institute suits.

1. Such suits shall be prepared by the agent of the commonwealth.

Prepared by agent.

2. No agent shall be allowed more than five per cent. for his whole attention to any estate.

Allowance.

§ 3. Lands or other property to which the commonwealth may be entitled under the three first articles of this chapter, by the owner dying intestate, may be sold on a reasonable credit, at any time, by the agent of the commonwealth, in pursuance to the written directions of the auditor. Upon the production of such directions by the agent, the personal representative, or other person having such estate in possession or under his control, shall surrender the same to such agent.

Land may be sold.

§ 4. The auditor, after the purchase money for any land so sold is paid into the treasury, shall convey the title of the commonwealth therein to the purchaser or his assignee, his heirs or devisees.

Auditor to convey.

ARTICLE IV.

Escheators.

§ 1. The governor shall appoint an escheator in each county, who shall hold his office for four years, or until removed, or a successor is appointed and qualified.

Escheators to be appointed.

1. He shall, before he enters on the duties of his office, give an obligation in the county court of the county for which he is appointed, with good surety, payable to the commonwealth, for the faithful discharge of the duties of his office; a certified copy of which shall be sent by the clerk of the court to the auditor.

To give bond.

2. He shall execute the duties of his office in person, and not by deputy.

To act in person.

3. He may be removed from office by the governor for misbehavior, neglect of duty, or incapacity.

Governor may remove.

§ 2. No escheator shall hold an inquest in any case embraced in the three preceding articles. He shall hold an inquest in all other cases embraced by the laws of escheat which have occurred where none has been holden, and in all cases which shall hereafter occur.

When to hold inquest.

§ 3. An escheator shall sit in public places:

To sit in public places.

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To give notice,

1. He shall give notice, posted on the court house door of the county thirty days, of the time and place of taking an inquest.

To require jury.

2. He shall cause the sheriff to impanel a jury of freeholders of the county, to convene at the time and place designated, who shall be sworn by the escheator to find and return a true inquest.

To preside at trial.

3. The escheator shall preside on the trial, keep order, and decide questions of law.

Evidence.

4. Witnesses and other evidence shall be heard touching the matters under investigation.

Verdict.

5. When the inquest is ended and verdict made up, each member of the jury shall sign the same.

It must be countersigned by the escheator, and returned by him, within thirty days, to the clerk of the county court.

Claimant may petition court.

§ 4. When the verdict on such inquest shall be for the commonwealth, any person claiming an interest, legal or equitable, in the land, may, before the sale thereof, petition the circuit court for redress.

Escheator to defend.

1. To which the escheator shall be a defendant, and shall file an answer stating the objections to the claim.

Court to decide.

2. The court shall decide the cause, but may, at the request of either party, impanel a jury to try the facts.

Witnesses coerced to attend.

§ 5. Each party shall be entitled to the appropriate process to coerce the attendance of witnesses on the inquest or upon the trial in court.

Land may be committed to claimant pending suit.

§ 6. Pending the petition, the court may commit the lands, or a part thereof, to the claimant, on his giving an obligation, with good surety, to take proper care thereof, and to pay the commonwealth the rents and profits of the same, if the right be found for her.

Or remain under control of escheator.

1. If not so committed, the lands shall remain under the control of the escheator, who shall be answerable for rents and profits to the claimant or the commonwealth, as the right may be determined.

Escheator to collect and account for rents.

2. The escheator shall, each year, collect and return a statement to the auditor of public accounts, of the rents received by him, and for what land, and pay the same into the treasury, except when a claimant shall be successful, deducting from such receipts five per centum for his services.

Inquisition not to affect terms, &c.

§ 7. The finding of an inquisition in behalf of the commonwealth shall not affect the right of any person who is entitled to any term or interest in the freehold or estate so found to be escheated, or has any rent, right of common, or any other profit issuing out of the same. But such person shall hold and enjoy his lease interest, rent common, and profit, whether the same is or not found in the inquisition.

Escheator may traverse finding.

§ 8. If an inquest be found against the commonwealth, the escheator may traverse the finding, and have it re-tried in the circuit court. Where the inquest is decided against

the commonwealth, it shall not be evidence as between the heirs of the person dying seized, on a question of heirship.

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ARTICLE V.

Lands to be reported to the Auditor, &c.

§ 1. Every escheator shall, within sixty days after office found for the commonwealth, transmit to the auditor of public accounts a statement showing the number of tracts of land or town lots escheated, the reputed quantity of each parcel, the county or town in which it lies, and the name of the person from whom the land escheated.

Lands escheated to be reported to auditor.

1. The auditor shall forthwith cause such statement to be published four weeks in a public journal, printed at the seat of government.

To be published.

2. If no person makes claim to the lands within six months from the finding of the inquest, or if any claim be so made and found against the claimant, the escheator shall sell the same at public sale, to the highest bidder, on a reasonable credit, giving proper notice thereof, and taking good security for the payment of the sale money.

To be sold if not claimed in six months.

3. The escheator shall certify the amount of the sale, and return the sale bond to the auditor of public accounts.

Sale to be certified.

4. When the amount of the bonds are paid into the public treasury, the auditor shall, on behalf of the commonwealth, make the purchaser a deed for the land.

Auditor to convey

5. Escheators shall be allowed five per centum on the amount of all sales of lands made, or rents received by them, to be paid when the proceeds are realized by the treasury.

Escheators allowed five per cent.

§ 2. If, under any treaty between the United States and any foreign country, time is allowed a citizen or subject of such country to sell lands escheated, the same shall not be sold by the escheator, unless such citizen or subject shall fail to sell the land within the prescribed period.

Aliens—when time to sell allowed by treaty.

§ 3. Any escheator failing to comply with any of the requisitions of this chapter, shall be fined one hundred dollars, upon indictment in the Franklin circuit court.

Fine of escheator for failure in duty.

§ 4. Estates held in trust or by mortgage shall not escheat or be forfeited by reason of the trustee or mortgagee being an alien, or of his dying without heirs. But any equitable title to lands shall escheat or be forfeited so far as it would if the person having the equitable had the legal title.

Estates in trust or by mortgage.

Equitable title.

§ 5. Lands which escheat shall nevertheless be subject to the debts of the person dying seized.

Land, subject to debts.

1. Any creditor of such person may file his procedure in equity to recover such debt in the circuit court of the county in which the inquest is returned, verified by affidavit, and make the escheator a party defendant thereto.

Creditor's claim.

2. The escheator may contest the claim.

May contest.

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Decree paid
out of lands.Escheator not
to pay costs.When remedy
applies.Net proceeds
reimbursed to
owner.

3. If the court shall decree that any part of the debt is justly owing, it shall be paid out of the proceeds of the lands, in whosoever hands it may be.

4. The escheator shall not be liable for costs in such suit.

5. The remedy given in this section shall obtain and apply to cases of escheat under the first and second articles of this chapter.

§ 6. The net proceeds of any estate embraced in this chapter, which may be paid into the treasury, shall be reimbursed to the proper owner, who had not before asserted claim thereto by petition or otherwise, upon his producing to the auditor evidence of the justice of his claim, certified to be competent by a majority of the judges of the court of appeals. In such cases the attorney general, if he deem it proper, shall be allowed time to adduce countervailing evidence before such certificate is given.

CHAPTER VII.

ARBITRATION AND AWARDS.

What cases
submitted.

§ 1. All controversies which might be the subject of a suit or action may be submitted to the decision of one or more arbitrators, or to two and their umpire, in the manner provided in this chapter.

Submission by
rule.

1. Parties may make such submission by rule of any court having jurisdiction of the subject matter.

By agreement
filed.

2. The parties making such submission shall, where there is no suit or action pending, by written agreement filed, and noted on the record, or by an entry on the record, state what matter is submitted.

Rule to state
time.

3. The rule of court shall state the time in which the award is to be made and returned.

May be en-
larged.

4. The court may enlarge the time for making and returning an award.

Oath.

§ 2. Arbitrators and the umpire, if there be one, before they proceed to act, shall take an oath to decide the controversy to them submitted according to law and evidence and the equity of the case, to the best of their judgment, without favor or affection; and a certificate of such oath shall be returned to court with the award.

Party may be
examined.

They shall have power to examine either party on oath at the request of his adversary.

Subpoenas.

§ 3. Any one of the arbitrators shall have power to issue subpoenas for witnesses to attend their sittings and give evidence touching the matters referred to them, to which all sheriffs and other like officers shall give obedience.

Witnesses
failing to attend,
or refusing to
testify.

Witnesses failing to attend before arbitrators at the time and place designated, or who shall refuse to give evidence when they do attend, shall be reported to the court by the

arbitrators, and proceeded against and punished as if the case had been pending in court.

§ 4. The personal representative of a decedent, guardian of an infant, committee of an idiot or lunatic, or any trustee, may make a submission, as herein provided for, touching the estate of such decedent, infant, or insane person, or in respect to which he is trustee.

1. Any such submission, so made in good faith, and the award made thereupon shall be binding, and entered as the judgment or decree of the court.

2. No such fiduciary shall be responsible for any loss sustained by an award adverse to the interest he represents, unless the same be caused by his fault or neglect.

§ 5. If any arbitrator shall fail or refuse to act, the court may set aside the order of reference.

§ 6. The arbitrators and umpire, if there be one, shall meet at such convenient times and places as may be necessary, (of which the parties shall have reasonable notice,) and hear such evidence as either party may adduce.

1. They shall have power to administer oaths.

2. They shall make their award in writing, stating therein the time when it is made, and sign the same.

3. When the award is made out, one copy thereof shall be delivered to each of the contending parties, and the original returned to the court, on which the arbitrators shall note the time of delivering a copy to each party.

§ 7. If such award be made out and returned, and copies delivered ten days before the term of the court next succeeding such delivery, the same shall be entered of record and made the judgment or decree of the court, unless on exceptions filed the award shall be set aside.

§ 8. No award shall be set aside for the want of form. But courts of chancery shall have power over awards on equitable principles, as heretofore.

§ 9. Matters within the jurisdiction of a justice of the peace may be submitted to arbitrators, by an order, rule, or agreement entered on his record book in the same manner, and the proceedings under it shall be the same in every respect, as are authorized and required in other courts.

Either party may appeal to the circuit court from the judgment of the justice on the award, as in other cases.

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Personal representative, guardian, committee, or trustee.

Effect of submission and award.

Fiduciary not responsible for loss.

Arbitrators failing, &c.

Meeting, &c.

Oaths.

Award.

Copy to each party; original return'd to court.

Record of award.

Setting aside award.

Cases within jurisdiction of justices of the peace.

Appeal.

CHAPTER VIII.

CLERKS.

ARTICLE I.

Oath and bond.

§ 1. Every clerk of a court and deputy, in addition to the oaths prescribed by the constitution, shall, in the presence

Oath.

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of the court, before entering on the duties of his office, take the following oath:

I, A. B., do swear, that I will well and truly exercise the office of _____, according to the best of my skill and judgment, making due entries and records of all orders, judgments, decrees, opinions, and proceedings of the court, and carefully filing and preserving in my office all books and papers, which shall be delivered me in charge, or otherwise come to my hands or possession by virtue of my said office, and that I will not, wittingly or willingly, commit any malfeasance of office, and will faithfully execute the duties of said office, without favor, affection, or partiality. So help me God.

Record thereof.

The fact that such oath has been administered shall be entered on the record of the court.

Bond.

§ 2. Every clerk, before he enters on the duties of his office, shall execute an obligation to the commonwealth, with good security, approved by the court, in substance as follows:

We, A. B., clerk of _____, and C. D. and E. F., his sureties, do hereby covenant and agree with the commonwealth of Kentucky that the said A. B. will faithfully discharge all and every duty of said office, and pay over in due time to the proper person any money received by him as clerk. Given under our hands this day of _____

Record thereof.

1. The bond shall be entered on the records of the court.

Copy to auditor.

2. A copy shall be transmitted by each clerk, within one month, to the auditor of public accounts, to be by him recorded and preserved.

Bonds renewed.

3. Clerks shall renew their bonds every two years, or oftener, if required by the court.

Suits.

4. Any person aggrieved may, as relator, institute suit on such bond.

When satisfied.

5. It shall not be satisfied until every person aggrieved has been recompensed.

Records, &c. delivered to successor.

§ 3. Upon the resignation, removal from office, or the expiration of the term of office of a clerk, he shall, immediately upon application, deliver to his successor or such other person as the court may order, all books, records, and other papers belonging to his office.

Penalty of failure.

Any clerk who shall fail herein shall forfeit and pay one thousand dollars, and be imprisoned from one to twelve months.

Executions.

§ 4. He shall keep a book in his office in which he shall enter the names of the plaintiffs and defendants, the amount and from what period the same bears interest, the date and return day and to whom delivered, and when returned, of every execution which may issue from his office.

Report to auditor.

§ 5. He shall, immediately after the fall term of his court every year, report to the auditor of public accounts a

full statement of the whole number of suits brought in his court the preceding year, verified by oath, designating therein whether the same was in chancery, common law, a criminal prosecution, or for a misdemeanor; the accuracy of which statement the judge of the court shall ascertain and certify.

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ARTICLE II.

Clerk of the Court of Appeals.

§ 1. It shall be the duty of the clerk of the court of appeals

Duty of clerk.

1. To preserve the transcripts of records certified to his court, with the bonds and all papers pertaining thereto.

Transcript.

2. He shall make out his docket without regard to the order in which the causes were brought into the court, but so that each cause may stand for trial at the proper term, as if it had been docketed in regular rotation.

Docket.

3. The proceeding of each day's sitting shall be drawn up by the clerk, but the mandate of decisions shall alone be entered of record.

Proceedings, mandate.

4. The clerk, at the next sitting of the court, shall make such corrections as ordered by the court, whereupon the presiding judge shall sign the same.

Signed by presiding judge.

5. In cases affirmed, a copy of the mandate alone shall be certified to the inferior court.

Cases affirmed.

6. In cases reversed, a copy of the whole opinion and mandate shall be certified.

Cases reversed.

§ 2. He shall, as often as may be necessary, transmit by mail to the clerks of inferior courts instructions in what manner to make out and certify complete transcripts of records.

Instructions to clerks.

1. Such instructions must be first submitted to and approved by a majority of the judges of the court of appeals, and shall be obeyed by clerks of inferior courts.

Submitted to judges.

2. He shall keep his office at the seat of government.

Office.

3. At the termination of every cause he shall, on some paper attached to or filed in the record, tax the costs of each party.

Taxing costs.

ARTICLE III.

Of inferior Courts.

§ 1. The clerk of every inferior court shall keep a docket of all causes pending in his court.

Docket.

1. Each civil cause shall be docketed in the succession in which it is brought.

Civil causes.

2. Chancery and other civil causes shall be docketed separately.

Chancery causes.

3. As many common law, penal, or criminal cases only as can probably be tried shall be set for any one day.

Set for trial.

4. Criminal and penal prosecutions are to be placed first on the docket in the succession in which they are filed in his office.

Criminal and penal prosecutions.

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 Proceedings
 signed.

Records, &c.,
 not to be taken
 from office.

Penalty.

Office.

To indorse time
 of filing of pro-
 cedure, &c.

No compensa-
 tion therefor.

Fees, when
 void.

Oaths.

Office to be kept
 open, &c.

Soldiers' claims.

Witnesses.

Furnish copy of
 claim.

§ 2. The proceedings of each day shall be drawn up by the clerk from his minutes in a plain, legible manner, which, after being corrected as ordered by the court, shall be signed by the presiding judge.

1. The clerk of no inferior court shall permit the records or papers of his office to be removed or taken out of the county in which his office is kept, except in case of invasion or insurrection, and then he shall return them as soon as the danger ceases, and except in obedience to a summons, or order of a court.

2. Any clerk offending herein shall be fined five hundred dollars.

3. He shall keep his office within two hundred yards of the court house, and for every twenty-four hours he fails to do so he shall be fined ten dollars.

§ 3. He shall, in all suits, actions, or motions now pending or which may be hereafter instituted, promptly and regularly indorse on an inner envelope, to be filed with the papers of the cause, the day of filing the procedure, with the names of each plaintiff and defendant, the list of every subpoena and other process issued, the return day thereof, the parties named therein, the return of such process, and the persons on whom the same is served, and the date and substance of each order made and step taken in the cause.

1. He shall receive no compensation for the services named in this section.

2. All his fees shall be void in each cause in which he fails to render the above required services at the proper time, and in a proper manner.

3. He may administer oaths in or out of court touching any matter pertaining to his office or pending in court.

4. He must keep his office open, free, and accessible, at all times, except the Sabbath day, to every person having a right or claim to business therein, under the penalty of five dollars for each failure.

§ 4. He shall certify and affix the seal of his office to soldiers' claims on the government for services rendered, or to any power of attorney or other writing concerning the same, without any fee or charge therefor.

§ 5. He shall keep a book in which he shall enter the names of each witness who attends the trial of any case in court upon legal summons, the number of days he attends, the number of ferries he necessarily has to cross, and of toll gates he has to pass through, with the distance he has to travel, if he resides out of the county, or more than twenty-five miles from the court house, and on whose behalf he was summoned.

1. He shall, on request, deliver to each witness a copy of such claim, stating the amount he is entitled to.

2. He shall, at the termination of every suit, tax on

some paper filed with the record thereof, in words at length, the costs of each party, which shall be subject to the supervision and correction of the court.

1852.
Taxing costs.

CHAPTER IX.
CONSTABLES.

ARTICLE I.

Their bonds and oaths.

§ 1. Every person who shall be elected or appointed to the office of constable shall, before he enters on the duties of his office, give an obligation, payable to the commonwealth of Kentucky, with good surety, in the county court of his county, in substance as follows:

Constable's
bond.

We, A. B., constable, and C. D. and E. F., his sureties, do hereby covenant with the commonwealth of Kentucky that the said A. B., as constable of county, shall well and truly collect all officers' fees and dues put into his hands to collect, and account for and pay the same in such time and manner as is directed by law: and shall well and truly execute and due return make of all process and precepts to him directed, and to him delivered, and of all notices and orders of justices or other tribunals, given to him to execute, and will pay and satisfy all sums of money by him received upon any such process or precept, or any note, account, fee bill, or other claim placed in his hands for collection, to the person entitled thereto, or to his order; and in all other things shall faithfully and truly execute and perform the said office of constable during his continuance therein. Given under our hands day of .

§ 2. The sureties shall be approved by the court.

Sureties.

§ 3. He shall, also, previous to entering on the duties of his office, besides the oaths prescribed by the constitution, take an oath before the county court in substance

Oath.

1. That he will do right as well to poor as rich, in all things belonging to his office; that he will do no wrong to any man for any gift or reward, nor for favor or hatred, and in all cases that he will truly and faithfully execute the duties of his office according to the best of his knowledge and power.

2. It shall be noted on the records of the court that such bond and surety had been given and approved by the court, and that the oaths of office had been administered.

Bond and oath
noted on record.

§ 4. If any constable fails to give bond and surety, and to take the oaths of office herein required for sixty days after his election or appointment, the county court shall enter up an order stating such failure, and that his office is thereby vacated.

Office to be vacated for failure to give bond, &c.

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ARTICLE II.

Of warrants, fee bills, &c.

What process he may execute. § 1. Constables may execute attachments issued by a justice, warrants in civil, penal, or criminal cases, distress warrants, serve notices, and shall return on all such process the time of serving the same.

Whip slaves. 1. Shall whip slaves under orders of justices of the peace.

Summon witnesses. 2. Summon witnesses to attend arbitrations, or trials before a justice or court, or on any legal procedure.

Process from county or circuit court. 3. May execute any original or mesne process from the county or circuit court, where the sheriff, coroner, and jailer cannot act, or cannot be procured to act in proper time.

When return defendant not found. § 2. No constable shall return any precept directed to him, that the defendant is not found—

1. Unless he shall have been actually at the place of residence of such defendant, and has not found him, and has left a copy of the precept, if the defendant is a resident of the county.

2. Or, unless such defendant's place of residence is unknown to such constable.

What precepts, &c., not compelled to receive. § 3. He shall not be compelled to receive a precept, fee bill, or order for witness attendance, or other claim against any person who is known to be and to reside out of his district, except

1. Such precept is in behalf of the commonwealth, or is a precept against property in his district.

When voluntarily received. 2. But if a constable shall voluntarily receive such precept, fee bill, order for witness attendance, or other claim, he and his sureties shall be accountable for the same in like manner as if the person it is against resided or was in his district, or had property therein.

Return. § 4. It shall be the duty of a constable to return every warrant or attachment and subpœna placed in his hands, on or before the return day thereof, under the penalty of five dollars, to be recovered on motion before a justice of the peace, upon proper notice.

Where return to be made. § 5. Every warrant or attachment in a civil case returnable before a justice, shall be returned in the justices' district within which the defendant resides.

1. Unless there are several defendants, and then in the district of one of them.

When several defendants. 2. Or, unless the defendant resides out of the county in which process is executed.

When defendant resides out of county. 3. Or, unless the plaintiff or defendant are of kin to both the justices in the district.

When parties kin. 4. Or, unless with the consent of the parties.

By consent. § 6. A constable may exercise the duties of his office in any part of the county.

May exercise office any where in county.

§ 7. He shall not act on any process in which he is personally interested, under the penalty of ten dollars for each offense.

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Where personally interested.

1. He shall not levy on or sell land, or any interest therein.

Not to levy on land.

ARTICLE III.

Fee Bills.

§ 1. A constable may distrain for his own fees, or may place the same in another officer's hands for collection.

When he may distrain for fees.

1. He may distrain for other officers' fees placed in his hands for collection.

2. He shall account for officers' fees six months after so placed in his hands.

When account therefor.

ARTICLE IV.

Remedy against.

§ 1. Any person injured by a breach of a constable's bond may, at his costs, prosecute an action thereon. The bond shall not be void on the first or on any other recovery, but may be put in suit and a recovery had thereon by every person who is injured by the acts or omissions of the constable.

Suits on bond.

§ 2. A motion may be made or suit prosecuted against a constable and his sureties, or any one of them, or the personal representatives, heirs, and devisees of any one or more of them, jointly with the survivors, for any money collected by him on an execution or order of sale or fee bill, or on any note or account, or other claim put into his hands to collect, and which, on demand, he neglects to pay.

Motions for money collected.

1. Ten days' previous notice specifying the grounds of such motion shall be given. If not executed on all, the motion may proceed against such as are notified.

Notice.

2. In such cases the plaintiff shall be entitled to recover the amount collected by the officer, and interest from the time of a demand, and neglect to pay, and ten per centum damages thereon, and the costs of his motion.

What recovered.

§ 3. A constable and his sureties, or any one of them may, by like motion, be rendered liable for the amount of any execution placed in his hands for collection, and ten per centum on the amount thereof, for not returning such execution to the justice's office who issued the same, within twenty days after the return day thereof, without reasonable excuse for such failure.

Motions for not returning execution.

§ 4. In actions or motions against a constable and his sureties, or any of them, for money collected by him, his receipt for the demand shall be presumptive evidence, after the expiration of one hundred and twenty days from its date, that such demand has been collected; but such presumption may be rebutted by other evidence.

Receipt evidence.

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Fee bills.

§ 5: A constable and his surety shall, in like manner, be liable for any fee bill or other claim placed in his hands for collection, which he does not collect, and fails, on demand, to return to the party entitled thereto, with a proper indorsement thereon, within six months from the time it is so placed in his hands for collection.

1. Also, for any injury for failing to collect the same, when by proper diligence it might have been collected.

Receipts to state amount.

2. He shall state in receipts given by him, the amount paid; for each failure to do so, he shall be fined five dollars.

Illegal charge.

3. For an illegal charge he shall forfeit his fee, and for each offense shall be fined five dollars.

ARTICLE V.

May be ruled to give other Sureties.

Additional sureties.

§ 1. The county court may, at any time, rule a constable to give other or additional sureties.

Counter security.

1. May, on the motion of any of his sureties, rule him to give counter security

Notice.

2. Ten days notice, specifying the grounds, must be given to a constable, before a final order shall be made in any such case.

Office vacated.

3. If a constable shall not comply with such rule, the court may enter up an order vacating his office.

Constable removed, &c.

§ 2. A constable who may vacate or be removed from office, shall return and account for all claims and papers which are officially in his hands, in the same manner as if he had continued in office.

ARTICLE VI.

Miscellaneous Provisions.

Priority.

§ 1. Executions, fee bills, orders of witness attendance, and attachments, shall be levied and satisfied by constables, according to the priority of time in which they are placed in their hands; and they shall, in every case, indorse the time of reception.

Constable not to buy claim, &c.

§ 2. No constable shall buy, or become interested by contract, in any claim against another put into his hands for collection; and any such purchase or contract may be relied on by a defendant in bar of a suit on such claim, or as a ground for vacating a judgment or quashing an execution thereon.

CHAPTER X.

CHARITABLE USES AND RELIGIOUS SOCIETIES.

What grants, &c., for charitable uses, &c., valid.

§ 1. All grants, conveyances, devises, gifts, appointments, and assignments, heretofore made, or which shall be hereafter made, in due form of law, of any lands, tenements,

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rents, annuities, profits, hereditaments, goods, chattels, money, stocks, or choses in action, for the relief or benefit of aged or impotent and poor people, sick and maimed soldiers and mariners, schools of learning, seminaries, colleges, universities, navigation, bridges, ports, havens, causeways, public highways, churches, houses of correction, hospitals, asylums, idiots, lunatics, deaf and dumb persons, the blind, or in aid of young tradesmen, orphans, or for the redemption of prisoners or captives, setting out of soldiers, or for any other charitable or humane purpose, shall be valid, except as hereinafter restricted.

§ 2. No charity shall be defeated for the want of a trustee or other person in whom the title may vest; but courts of equity may uphold the same by appointing trustees if there be none, or by taking control of the fund or property, and directing its management, and settling who is the beneficiary thereof.

Not defeated for want of trustee.

§ 3. No church or society of christians shall be capable of taking or holding the title, legal or equitable, to exceeding fifty acres of ground; but may acquire and hold that quantity for the purpose of erecting thereon houses of public worship, public instruction, a parsonage, a grave yard, and a horse pound.

Churches, &c., limited to fifty acres

1. The society may, before or after the creation of the charity, appoint not exceeding three trustees, who, and their successors, shall be vested with the title, legal or equitable, to such property, for the use of such society.

Trustees to be appointed.

2. The society shall enter such appointment on its record book, a majority concurring therein, and may fill vacancies in like manner.

Record of appointment.

3. The trustees, or a majority of them, may, in their own names, for the use of the society, institute and prosecute suits to recover any property, real or personal, to which the society has right, and may defend any suit that shall be instituted against the trustees or society, for or touching its temporalities.

May prosecute and defend suits.

4. In case a schism or division shall take place in a society, the trustees shall permit each party to use the church and appurtenances for divine worship a part of the time, proportioned to the members of each party.

Schisms.

5. The excommunication of one party by the other, shall not impair such right, except it be done, *bona fide*, on the grounds of immorality.

Excommunication.

§ 4. If any society holding lands shall dissolve, the title to such land and appurtenances shall vest in the trustees of the county seminary in which the land may lie, for the use of such seminary; and if there be no such seminary, then in the county court, for the benefit of common schools in the county. The provisions of this section shall not apply to the society called Shakers, who shall have the same

Dissolution.

Shakers excepted.

1852. right to acquire and hold real estate, as they have had prior to the passage of this act.

CHAPTER 11.

PUBLIC ARMS AND ACCOUTREMENTS.

Where kept. § 1. The public arms and accoutrements of the state shall be kept at the seat of government, in the state arsenal, under the superintendence of the quartermaster general.

To be kept in order. § 2. Such arms and accoutrements shall be cleansed and kept in good order from time to time.

Expense, how paid. 1. The expenses thereof shall be paid out of the treasury.

2. They being certified by the governor to the auditor of public accounts.

Auditor to report sum paid. § 3. The auditor shall report to each session of the general assembly the sums expended under this chapter.

Arms drawn only on order of Governor. § 4. The public arms and accoutrements shall not be drawn from the state arsenal and distributed, except upon the order of the governor, and then only by and among such militia companies and persons as in the governor's opinion may be required by the public safety.

Quarter Master General to report to Governor. § 5. The quartermaster general shall, at each session of the general assembly, report to the governor, the quantity, quality, and description of public arms and accoutrements in the state arsenal. If any have been drawn by the order of the governor, he shall state the quantity, and by whom drawn.

Arms drawn to be accounted for. § 6. All arms and accoutrements which may be drawn from the state arsenal under the provisions of this chapter, shall be accounted for or returned when the cause authorizing the withdrawal has ceased to exist.

Receipt for arms drawn. § 7. When any arms or accoutrements are drawn from the state arsenal, as herein provided, the quartermaster general shall take the receipt of the person drawing the same, therein reciting the quantity and quality drawn, and stipulating that the same are to be accounted for or returned when the cause for which they are drawn shall cease to exist; which receipt, with the order of the governor, shall be filed away in the quartermaster general's office and carefully preserved.

Suits for arms not returned. § 8. If the arms and accoutrements so drawn from the state arsenal are not returned in proper order within a reasonable time after the exigency upon which they may be drawn has ceased, the quartermaster general shall institute the proper procedure, in the name of the commonwealth, to coerce the return of the same, or to recover their value, or the amount they may be injured.

1. He shall report the result of the suit, and what part of the arms and accoutrements he has regained, and what amount he has realized for those not regained.

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Result to be reported.

2. The net amount of money recovered shall be laid out in the purchase of other arms and accoutrements, to be deposited in the public arsenal, and in like manner reported to the governor.

Sum recovered.

§ 9. The governor shall lay all the reports made to him as herein directed before the general assembly.

Reports to general assembly.

CHAPTER 12.

PUBLIC BUILDINGS.

ARTICLE I.

§ 1. The state librarian shall be, *ex officio*, superintendent of the public property of the commonwealth at the seat of government.

Librarian *ex-officio* superintendent.

1. The superintendent shall have under his care the capitol, and all other public property at the seat of government, not placed in the charge of others, and shall protect the same, as far as practicable, from depredation and injury.

Duty of superintendent.

2. He shall attend and frequently air, clean, and keep from injury the various rooms, and the carpeting and furniture, in the capitol.

Air, clean, &c.

3. He shall keep the keys of the capitol, and of the committee and court rooms therein.

Keep keys.

4. He shall keep the public square around the capitol clean and in good order.

Public square.

5. He shall not permit, during the recess of the general assembly, the senate chamber or the chamber of the house of representatives to be used.

Chambers not to be used in recess.

ARTICLE II.

Expenditures.

§ 1. The superintendent of public property shall purchase, under the orders of the governor, from time to time, such furniture as may be required in the capitol, state court rooms, and public offices, and governor's house.

Furniture.

1. He shall, under like orders, cause any of the public buildings, and the fences around the same, to be properly repaired.

Fences.

He shall also contract for and have supplied all the fuel and lights required for the use of the general assembly, secretary's office, the rooms of the auditor, treasurer, register, librarian, and president of the board of public works, and court rooms. But no expenditure shall be approved by the governor or money paid from the treasury for the same, unless it was in compliance with a contract,

Fuel and lights.

Contracts to be first made.

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in writing, first made by the superintendent and approved by the governor.

Payment from
treasury.

3. Upon a statement of the expenditures embraced in this section, containing the items, approved and countersigned by the governor, the auditor of public accounts shall issue his warrant on the treasury, for the amount thereof, in favor of the superintendent.

Inventory of
furniture, &c., at
end of Govern-
or's term.

§ 2. When the term of office of the governor expires, or he vacates his office, the superintendent shall take an inventory of all the public property and furniture in the governor's house and outhouses, and deliver the same to the auditor of public accounts, to be preserved in his office.

Old furniture to
be sold.

1. He shall sell such old furniture in the capitol and governor's house and outhouses, and in any of the public offices, as may no longer be fit for use, first obtaining from the governor an order approving of the sale.

Proceeds paid
into treasury.

2. The proceeds of such sale shall be paid into the public treasury, and an inventory of the articles sold returned to the auditor of public accounts, to be kept in his office.

Expenditures
to be reported to
general assembly.

§ 3. A statement of expenditures for repairs, fuel, water, light, and furniture, containing the items, shall be returned to the governor, and laid before each session of the general assembly, and entered on the journals of both houses.

Suits by super-
intendent.

§ 4. Such superintendent shall institute the proper civil procedure in the name of the commonwealth, against any person for any injury or intrusion which may be committed on the public property embraced in this and the preceding articles.

Proceeds

1. The net proceeds recovered shall be paid into the public treasury.

Treasurer to re-
port.

2. The treasurer shall report to the next general assembly the sums thus paid over, and all sums paid to him for articles sold.

ARTICLE III.

Public county buildings.

Jailer ex-officio
superintendent.

§ 1. The jailer of each county shall, by virtue of his office, be superintendent of the public square, court house, clerks' offices, jail, stray pen, and other public county buildings at the seat of justice.

Suits by.

1. Such superintendent shall have the power, and it shall be his duty, to institute and carry on the appropriate civil procedure in the name of the county, for any injury or intrusion which may be committed on any of the county property named in this article.

Net proceeds.

2. The net proceeds of any such recovery shall be paid to the county court in aid of the county levy.

Court house
rented.

§ 2. Each county court, during the period a court house is being built or repaired, may rent another house, not far-

ther than a quarter of a mile from the public square, in which the courts for that county may be holden until the court house is built or repaired.

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1. May, in like manner, rent a house within the same distance of the public square for a clerk's office or jail, during the period of erecting a new one, or the repair of an old one.

Clerk's office.

2. The rent of any such house shall be paid out of the county levy.

Rent paid out of county levy.

ARTICLE IV.

Penal remedies for injuries to public property.

§ 1. Any person trespassing on any of the public property of the commonwealth, or of a county, shall be liable to be presented therefor, and fined at the discretion of a jury, in addition to his civil liability.

Trespassing on public property.

1. The net proceeds of the fine for a trespass on the public property of the state shall be paid into the public treasury, and reported by the treasurer to the next general assembly.

Proceeds of fines.

2. The net proceeds of the fine for a trespass on the public property of a county shall be paid to the county court, in aid of the county levy.

ARTICLE V.

Colleges and churches.

§ 1. Like remedy, civil and penal, shall be given to the trustees of any college, seminary, school, church, public charity, or house of public worship, against any person for any injury to or intrusion on the buildings or grounds or property attached thereto, as is given for a similar injury or intrusion on the public property of the commonwealth or of a county.

Injuries to colleges and churches.

1. The net proceeds of the recovery in any such procedure, civil or penal, shall be paid over to the trustees entitled thereto.

Proceeds of fines.

2. A civil action for such injuries shall not be impeded by the death, resignation, or removal of one or more trustees, but the same shall progress as if he or they were still acting.

Civil action not impeded by death of trustee.

CHAPTER XIII.

DIVISION AND CONVEYANCE OF LAND BY COMMISSIONERS APPOINTED BY THE COUNTY COURTS.

§ 1. Land held by joint tenants, tenants in common, coparceners or devisees, whether they or any of them be citizens or non-residents of this state, may be divided and conveyed by commissioners appointed by the county court of the county in which the same, or the greater part thereof, is situated, in the manner prescribed in this chapter.

What lands may be divided and conveyed.

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Commissioners appointed by county court.

§ 2. The party desiring such partition and conveyance may apply to the county court for the appointment of three competent and impartial commissioners, who, or any two of them, shall make the division and conveyance, with a due regard to justice and fairness to all parties concerned.

Notice of application.

Before such appointment of commissioners shall be made, unless all the persons interested join in the application, reasonable notice, in writing, of the intended application for the appointment, shall be given upon the parties resident within the state; as to non-resident parties, such notice shall be published at least three weeks in some authorized newspaper printed in this state. If there be married women, infants, or insane persons concerned, notice to the husband, guardian, or committee shall be good; if there be no guardian or committee, the court shall appoint, for the occasion, some person to represent the interest of such infant or insane person, to whom the notice shall be given.

Evidences of title to be filed.

§ 3. The evidences in writing, or official copies of the same, of the title to the land, shall be filed in court when the motion for the appointment of commissioners is made.

Commissioners to take oath.

§ 4. The commissioners, before they proceed to act under the order of appointment, shall take an oath impartially and fairly to divide the lands, according to the rights of each party.

Day and place of meeting.

§ 5. The court shall, in the order appointing the commissioners, name the day and place of their meeting, upon the land to be divided. The commissioners, after they shall have met, may continue from day to day, or may adjourn to any other day, and again meet and continue from day to day, until the whole division shall be completed.

Report of allotment and execution of deeds.

§ 6. They shall survey and allot to each party his interest, and make report of the division to the county court, which report, if approved by the court, shall be ordered to record in a book provided for that purpose; and the court shall direct the commissioners who have made the division to execute deeds of partition to the parties for their respective interests, which deeds, when executed, shall pass the title as well of married women, infants, and persons of unsound mind, as of the adult parties to such proceeding.

Division, &c., in other cases.

§ 7. The county court shall also have jurisdiction to order the conveyance or the division and conveyance of land, in the following cases and manner, upon notice being given and the proceedings had, as required in the preceding sections.

When land claimed by executory contracts.

1. When the application for the conveyance, or for the division and conveyance of land, is based upon the bond or executory contract of the party seized, or of his ancestor, deviser, or grantor, the bond or contract shall be produced and proven to be the act and deed of the person it purports to be; and the court shall be satisfied that the

purchase money has been paid, or the conditions upon which the land was to have been conveyed, have been performed.

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If desired by any person interested, the court shall cause a jury to be summoned and sworn, to try the questions of fact above enumerated.

2. After the order appointing commissioners is made, and after they have made their report and executed deeds, it shall not be lawful to controvert the facts required to be proven in the county court, unless by suit in chancery to set aside the proceedings for fraud or mistake. A writ of error, or appeal to the court of appeals, as in other cases, may be prosecuted by a party aggrieved by the division or conveyance.

After deed executed, facts to be controverted only by suit in chancery.

§ 8. The commissioners shall each be paid by the party calling upon them, one dollar per day while engaged, and one dollar for each deed they shall execute.

Pay of commissioners.

CHAPTER XIV.

TOWNS.

ARTICLE I.

How towns may be established.

§ 1. The county court of each county, on the application of the proprietor, if it deem the same advantageous and necessary to the public at large, may establish a town, and thereby vest the title of a designated tract of land in trustees and their successors, for that purpose.

County court may establish towns.

1. The court, in the order establishing a town, must give the metes and bounds, and the quantity of land embraced therein.

Metes and bounds.

2. And fix the name of the town and appoint trustees for the same.

Name.

3. Three months notice of an intended application to establish a town must be given, immediately preceding the same, by an advertisement posted up at the court house door of the county, and by publication in some authorized newspaper.

Notice of application.

4. The land so vested in trustees shall be laid off into convenient lots, streets, and alleys, and each lot numbered and each street named; and a plat thereof must be recorded in the county court clerk's office.

Land divided into lots.

5. The lots shall be disposed of by the trustees, at public auction, on such credit as the proprietor may direct, proper notice of the time and place of sale being given.

Lots sold at auction.

6. Obligations with good surety for the sale money must be taken by the trustees, payable to the proprietor, and delivered to him for collection.

Surety for sale money.

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Conveyance
of title.

7. The trustees shall, when the sale money is paid, convey the title of the lots to the respective purchasers or their transferees.

Bond of propri-
etor.

8. When a town is established, the court shall take from the proprietor bond and good surety, payable to the commonwealth, stipulating that if any person shall establish a better title to the land on which the town, or any part thereof, is erected, he will pay and account to such person for all sums of money, with interest thereon, for which the lots, or parts of lots, included within the better title were sold by the trustees.

Suits thereon.

9. Suits may be instituted from time to time, on such bond, by any person interested.

ARTICLE II.

*Concerning trustees.*Election of trust-
tees.

§ 1. Each town shall annually, the first Monday in June, elect five trustees; ten days previous notice, in writing, of the time and place of each election must be set up by the clerk of the board, at five of the most public places in the town.

Tie.

1. If two or more persons receive an equal number of votes, the clerk shall decide who is elected.

Who eligible.

2. No person shall be eligible to the office of a trustee who is not a citizen of the town and a qualified elector of this commonwealth.

Who may vote.

3. No person shall vote at an election of trustees who has not resided in the town where the election is held sixty days next preceding the same, and who is not a citizen of the state.

By whom con-
ducted.

4. Elections of trustees shall be held and conducted by the clerk of the board, who must return the result to the old board of trustees, who shall cause the same to be recorded in their journal.

If no election,
trustees appoint-
ed.

5. If, from any cause, no election is held in any town at the time prescribed by law, the county court of the county shall appoint five trustees for such town, to act until the next stated election.

When enter on
duties.

6. Trustees shall enter upon the duties of their office on the Monday next succeeding their election or appointment, and continue in office until their successors are qualified. A trustee appointed to fill a vacancy shall enter upon the duties of his office immediately after he qualifies as such.

Oath.

7. Every trustee and clerk of the board of trustees shall, before he enters on the duties of his station, take the oaths prescribed in the constitution.

ARTICLE III.

1852.

Powers of trustees.

§ 1. Trustees of towns may make such rules and regulations for the government thereof, not inconsistent with the laws and constitution, as they may deem necessary and proper.

Trustees may make rules, &c.

1. They may fill vacancies in their board until the next stated election.

Fill vacancies

2. They must cause the streets of the town to be kept clean and in good order.

Keep streets in order.

3. They may levy an annual tax on the males over twenty-one years of age, residing in the town, of not exceeding one dollar upon the head, and may levy an *ad valorem* tax on the real estate and slaves in the town, of not exceeding twenty-five cents on the hundred dollars.

Levy tax.

4. They may appoint a clerk, assessor, town warden, collector, and treasurer, and take from the two latter bond and good surety for the faithful performance of their duties.

Appoint clerk, assessor, &c.

5. Three trustees may constitute a board to do business.

Three a board.

§ 2. The trustees of each town shall be a body corporate, and by that name may sue and be sued, and may appoint all necessary agents and attorneys in that behalf. They may elect one of their body chairman of the board.

§ 3. They shall have the power to purchase, take, and hold the title to not exceeding forty acres of land, in or near the town, for a public cemetery.

May hold forty acres for cemetery.

1. They shall have the power to improve such ground and appoint a keeper thereof.

May improve.

2. To sell small parcels of the ground to individuals for the purpose of interment.

Sell small parcels.

3. To receive and collect subscriptions to aid in purchasing, improving, taking care of, and repairing such ground.

Receive subscriptions.

§ 4. They shall have the power to tax any show or exhibition, and bowling alleys within the town, or within a quarter of a mile of the limits thereof, to the same amount as they are taxed by the state.

Tax shows, &c.

§ 5. No stallion or jackass shall stand within the bounds of any town, without first being authorized so to do by a license from the trustees thereof, designating the place at which he is to stand.

License stallions and jacks.

For a violation of this section, the keeper and owner of such animal shall be jointly and severally liable to a fine of five dollars for each day, to be recovered by warrant, in behalf of the trustees of the town.

Fine for standing without license.

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ARTICLE IV.

*Duties of trustees.*Trustees to keep
journal.

§ 1. The trustees of each town shall keep a journal of their proceedings, and at the request of a member the ayes and noes on any question shall be recorded.

To be read.

1. At the next meeting the proceedings shall be read and signed by the member who presided at the last preceding meeting. If he is not present, by the person presiding when they are read.

Member inter-
ested.

2. No member shall have a vote on a subject in which he has a private interest.

Called meeting.

3. A meeting of the board may be called by the chairman, or by two members.

Keep account,
&c.

4. They shall keep an account of all moneys levied, collected, and disbursed, and state on their journal for what objects each sum is disbursed.

Journal open
to inspection.

5. Their journal shall, at all times, be open to the inspection of the citizens of the town.

Annual state-
ment to be post-
ed up.

§ 2. They shall, once in each year, give a full and fair statement in writing, signed by the chairman, of all sums collected, and of all sums disbursed the preceding year, and what for, and of all debts due them, or owing by them; which shall be posted up for inspection at three of the most public places in the town.

ARTICLE V.

*How additions to towns may be made.*Boundaries ex-
tended or estab-
lished.

§ 1. The boundaries of a town may be extended or established in the following manner:

Advertise-
ments.

1. The proprietors of the land, or the trustees of the town, must advertise as is required to establish a town.

Application to
county court.

2. Such advertisement having been made, the party making it may apply to the county court of the county, which court may, if they deem it necessary and proper, add a specified parcel of land to such town.

Order shall
vest title.

3. The order of court shall vest the title of the land so added in the trustees of the town.

Powers and
duties of court
and trustees.

4. The powers and duties of the court and trustees shall be the same in every respect, where such an addition is applied for and made as when a town is originally established.

ARTICLE VI.

*Streets and alleys may be extended.*Streets and al-
leys extended.

§ 1. The trustees of any town near a river, where there is land intervening between the town and the river, may, by petition to the county court, procure the streets and alleys of the town leading towards the river to be extended to the low water mark thereof.

1. The court, on the filing of such petition, shall cause the proprietors of the land through which the extension is proposed, to be summoned or notified to show cause, if any, against such extension.

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Proprietors summoned.

2. If the proprietor or his agent or attorney so desire, the court shall cause a writ of *ad quod damnum* to issue and a jury to be impaneled, none of whom shall be residents of the town or owners of property therein.

Writ of *ad quod damnum*.

3. The jury shall meet on the ground, and be sworn as in case of a road, and the parties notified of the time of such meeting. After viewing the ground, they shall say what damage the proposed extension will be to the respective proprietors of the land.

Jury.

4. The inquest, in writing, must be signed by the foreman of the jury, and returned to the county court by the sheriff or other officer.

Inquest.

5. On the return of the inquest the court may, upon the payment by the town of all damages and costs, order the streets and alleys to be extended and opened.

Order.

ARTICLE VII.

Miscellaneous provisions.

§ 1. No person, except a gunsmith on his own premises, shall shoot off a gun or pistol in a town. Any person offending herein shall be fined five dollars and costs, to be collected by the trustees, and applied to keeping the streets of the town in repair.

Shooting in town.

§ 2. No person shall show a stallion or jackass on the streets, or the public square of a town; nor shall any person let such horse or jackass to a mare or jennet within the bounds of a town, except in an enclosed out lot thereof. Any person offending herein shall be fined five dollars and costs, and imprisoned until the fine and costs be paid, the fine to be collected and applied as is directed in the next preceding section.

Showing, &c., of jackass.

§ 3. Trustees of towns shall be responsible for not keeping the streets and alleys thereof in proper repair and unobstructed, in the same manner and to the same extent that surveyors of roads are responsible, and shall be liable to a fine of ten dollars if they fail to enforce the two preceding sections.

Repairing streets, &c.

§ 4. The inhabitants of towns shall not be compelled to work on the public roads more than half a mile beyond the town limits.

Working public roads.

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CHAPTER XV.

SMALL POX.

ARTICLE I.

Concerning its importation.

Penalty for importing.

§ 1. If any person shall willfully or designedly import or bring the small pox or any variolous or infectious matter of the said disease into this commonwealth from any other country or place whatsoever, or shall cause the same to be done, with the intent to inoculate any person, or by any means to propagate the disease, he shall forfeit and pay the sum of one thousand dollars.

ARTICLE II.

Inoculation.

Poor to be inoculated at expense of county.

§ 1. When there is danger of the spread of the small pox in any county, the presiding judge of the county court thereof may employ one or more physicians to inoculate the poor of the county, and agree on a compensation therefor. The court of claims of the county shall levy and provide for paying the stipulated sum.

ARTICLE III.

Concerning the spread of small pox.

Intercourse prohibited.

§ 1. Every person superintending a hospital or other place where a patient having the small pox is confined, shall prohibit all intercourse therewith of persons not having had the disease, and shall, before discharging a patient, or suffering him to be removed, take due care that his person and clothes are cleansed, under the penalty of ten dollars.

Separation of persons who have been exposed to the disease.

§ 2. If any person who has never had the small pox shall go into a house where the disease is, or associate with a person who is afflicted therewith, any justice of the peace, on due proof of the fact, may cause such person to be conveyed to some house or place in the county where the disease will not spread, there to remain until he shall have gone through the disease, or until a physician shall certify that he will not take the same. If such person be not able to pay the expense of his nursing, the county shall pay the same.

Penalty for willfully endeavoring to spread disease.

§ 3. If any person shall willfully endeavor to spread or propagate the small pox, he shall be subject to be presented and fined the sum of five hundred dollars, or to be imprisoned for six months.

CHAPTER XVI.
NOTARY PUBLIC.

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§ 1. The governor shall nominate, and by and with the advice of the senate, appoint as many notaries public as to him may seem necessary, who shall hold their respective offices for the term of four years.

Appointed by governor for 4 years.

1. He shall fill vacancies in that office occurring in the recess of the senate, which appointments shall expire at the end of the next session of the senate.

Vacancies.

2. The commission of the governor, on making the appointment, must designate the limits within which the notary is to act.

Commission.

3. Before a notary acts he must take an oath, in the county court of his county, that he will honestly and diligently discharge the duties of his station.

Oath.

4. He must, also, in the same court, give an obligation, with good surety, for the proper discharge of the duties of his office.

Obligation with surety.

§ 2. All instruments of writing, to which, by law, the signiture or seal of a notary is required and is placed, shall be received as evidence without any other or further authentication.

Writings signed or sealed by a notary, evidence.

CHAPTER XVII.
STATE LIBRARY.

ARTICLE I.

Concerning the library room, funds, &c.

§ 1. The rooms in the basement story in the capitol, at the left and right hand of the entrance, are hereby set apart for the use of the state library.

Library rooms.

§ 2. Five hundred dollars per annum is forever set apart for the gradual increase of the library, to be laid out and expended under the advice and direction of the judges of the court of appeals for the time being.

Annual appropriation to increase library.

1. When the librarian shall make and lay before a majority of the judges of the court of appeals, an affidavit that he has that year expended five hundred dollars in the purchase of books, charts, or maps for the state library, under the advice and direction aforesaid, and giving a schedule thereof, such judges may draw an order on the auditor therefor.

Judges court of appeals to draw order for.

2. Such order may be drawn each year, on the production of the proper affidavit and schedule, and shall authorize the auditor to issue his warrant on the treasury for the amount.

Order to be drawn and warranted each year.

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ARTICLE II.

Election of librarian, and his duties.

Election of Librarian.

His bond.

§ 1. A state librarian shall be elected biennially, by the general assembly, who, before he enters upon the duties of his office, shall enter into bond, payable to the commonwealth, in the penal sum of five thousand dollars, with two or more securities, to be approved by the secretary of state, conditioned for the faithful discharge of all the duties imposed, or which shall be imposed upon him by law, which bond shall be filed with and preserved by the secretary of state, and upon which suit may be prosecuted from time to time, in the name of the commonwealth of Kentucky, for violation thereof; and it shall be his duty—

To keep library open.

1. To attend to and keep the library rooms open every day (Sundays excepted,) from 10 o'clock a. m., until three o'clock, p. m.

To preserve books, &c.

2. To keep the library rooms in order, and to preserve and arrange all the books, charts, maps, and furniture belonging to the state, and to see that no books or other things are taken from the library rooms improperly.

To receipt for books, &c.

3. To receipt for all books, maps, charts, and furniture placed in the library, which receipt shall be given to the secretary of state, and preserved in his office.

To keep account of books taken out, &c.

4. The librarian shall note in a book to be kept for that purpose, every book taken from the library, when, and by whom taken, and see that the same is returned.

To report catalogue, &c.

5. He shall report to each session of the general assembly a catalogue of the books in the library, particularly such books as have been purchased by or given to the library since his preceding report.

Who trustees.

§ 2. The secretary of state, attorney general, and auditor of public accounts shall be trustees of the state library.

Their duties.

1. They shall see that the librarian properly discharges the duties of his office; and

2. That he makes out and reports to the general assembly a correct catalogue of the books, maps, charts, and furniture on hand, and the condition thereof, at each session.

3. The report shall be signed by the librarian, and countersigned by the trustees.

Suits by librarian.

§ 3. The librarian may, in his own name, for the use of the state library, sue any person for a book or other thing drawn from the library, which he fails to return, or for any damage done to any book or other thing belonging to the library.

Selling and exchanging books.

§ 4. The librarian shall, from time to time, with the consent of the governor, sell or exchange such portion of the decisions of the court of appeals, acts of assembly, and other books belonging to the state as may be deemed expedient, and out of the proceeds thereof, and of the sums re-

covered under the next preceding section, he may, with such assent, purchase other books, maps, or charts:

§ 5. The librarian shall keep a correct account of all expenditures for the library, and lay the same before the general assembly at each stated session thereof.

1. He shall number each book by writing the number in figures on the back thereof, and on the inside of the front lid, beginning with number one, and going up.

2. In numbering the volumes, the full sets of any work must be numbered in succession, and then the broken sets in like manner, except that the missing numbers may be skipped, and they must be numbered when restored.

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Account of expenditure.

Books to be numbered.

How.

ARTICLE III.

What books constitute the library.

§ 1. The following books shall constitute a part of the state library, to wit: all the books now on hand, of which there are not exceeding four sets, except the following, of which there shall be the number of sets named: Morehead & Brown's edition of the statutes, fifty sets; the revised statutes, fifty sets; the code of practice, fifty sets; Pirtle's digest, ten sets; five sets of the journals of each of the two houses of congress; of the journals of each house of the general assembly of the state, twenty-five sets; of the acts of each session of congress, twelve sets; of the acts of each session of the general assembly of Kentucky, fifty sets; of the reports of the decisions of the court of appeals, ten sets; and such other books as may be purchased by or given to the library.

Books constituting library.

ARTICLE IV.

Who may use the books.

§ 1. The following persons may use the books of the state library: members and officers of the general assembly; the state officers whose offices have, by law, to be kept at the seat of government; the judges of the court of appeals and circuit court of Franklin county, and of the federal court for Kentucky.

Who may use books.

§ 2. The use of the books shall be under the responsibilities stated in this chapter.

Responsibility.

CHAPTER XVIII.

SECRETARY OF STATE.

ARTICLE I.

Concerning his powers.

§ 1. The secretary of state, with the assent of the governor, may appoint an assistant secretary, who, in case of the absence or indisposition of the principal, may do the

Appointment of assistant secretary.

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business of his office in his name; and the secretary shall be responsible for the acts of such assistant.

Oath.

§ 2. Before the assistant secretary acts under such appointment, he must take the oaths prescribed by the constitution.

Porter.

§ 3. The secretary of state may employ a porter to attend on his office, the office of the register of the land office, and the office of the board of internal improvement, at a sum not exceeding one hundred and fifty dollars per annum, to be paid out of the treasury on the secretary's order.

ARTICLE II.

Concerning his duties.

Seal.

§ 1. The seal of this commonwealth shall be provided and kept by the secretary of state.

Residence.

§ 2. The secretary of state must reside at the seat of government, and shall have such powers and discharge such duties as may be required by law.

Tax for affixing seal.

§ 3. No tax shall be demanded by the secretary of state for affixing the seal of the commonwealth to a commission or grant, except for commissioner of deeds, for which a tax of five dollars shall be paid.

Inspecting and filing papers.

§ 4. The secretary of state, at the close of each session of the general assembly, shall inspect the papers and documents which remain with the unfinished business, and carefully file in his office such as he considers worthy of preservation, with proper labels affixed thereto, designating the session to which the same belong.

Exchanging copies of laws.

§ 5. He may exchange with any state of this union copies of the laws of this state for copies of the laws of such other state; those which he exchanges to be bound in the same manner as those received.

Exchanging decisions.

§ 6. He may, in like manner, exchange the decisions of the court of appeals of Kentucky for the decisions of like value of the supreme appellate court of any other state in the union.

Custody of books, &c.

§ 7. He shall have the custody of the books, records, deeds, maps, and papers belonging to his office, or that may be deposited therein, and shall arrange and preserve the same.

Copies of records evidence.

Copies of records and papers in his office, certified by him, shall, in all cases, be evidence equally with the originals.

Purchasing books, &c.

§ 8. The secretary may, as often as necessary, purchase for the use of the commonwealth such books as the law requires to be distributed.

1. He shall deliver the same to the persons legally applying therefor.

2. The auditor of public accounts shall draw his warrant on the treasury in favor of the secretary for the amount such books may cost.

§ 9. When a judge is, by impeachment or address, removed from office, the secretary of state shall notify the clerk of the court of which he was judge of such removal, to be filed by the clerk in his office. The removal must also be recorded in the secretary's office.

1852.
Removal of
Judges.

§ 10. The secretary of state shall, monthly, receive from the auditor of public accounts a report of the interest paid on any bond issued by the state, to whom and when paid, and record the same in a well-bound book, and carefully file and preserve the reports. And it shall, moreover, be his duty to report to each general assembly, within the two first weeks of its session, the amount of each monthly payment so returned.

Payment of in-
terest on state
bonds.

CHAPTER XIX.
PUBLIC PRINTER.

ARTICLE I.

How appointed.

§ 1. A public printer for the commonwealth shall be elected, biennially, by a joint ballot of the two houses of the general assembly, who shall continue in office for two years from and after the first Monday in August next succeeding his election.

Election.

ARTICLE II.

His duties and compensation.

§ 1. He shall keep his office at the seat of government.

Office.

1. He must insert the words "public property" in books printed for the state.

Station.

2. And publish in his paper advertisements for the sale of non-residents' lands.

3. He shall do all the public printing required by either house of the general assembly, or by law.

§ 2. Paper for the public printing shall be furnished at the public expense, by the auditor of public accounts.

Paper.

§ 3. The public printer shall receive for the public printing done by him the following prices :

Compensation.

1. For printing the acts, journals, public documents, and other books and pamphlet work, not rule or figure work, in small pica type, and in type of less size than small pica, per 1000 ems, fifty cents.

Acts, Journals,
&c.

2. For rule and figure work, in the same kind of type, for each 1000 ems, one dollar.

Rule and fig-
ure work.

3. For plain rule work, or plain figure work, in type as above, for each 1000 ems, seventy-five cents.

Plain rule.

4. For composition on all bills, reports, or resolutions, on cap paper, or in folio form, per 1000 ems, one dollar.

Bills, &c.

1852.	5. For plain blanks, per. quire, on cap or letter paper, fifty cents.
Plain blanks.	6. For ruled blanks, on letter or cap paper, one dollar per quire.
Ruled blanks.	7. For ruled blanks, on post and similar sized paper, one dollar and fifty cents per quire.
Ruled blanks, post.	8. For advertising lists of non-residents' lands, per tract, twice a month for three months, twenty-five cents.
Non-residents' lands.	9. For advertising land to be forfeited to the state for the non-payment of taxes, twice a month for three months, twenty-five cents per tract.
Forfeited lands.	10. For press work, per token, (or two hundred and forty impressions,) whether on book work, bills, resolutions, or reports, seventy-five cents.
Press work.	11. For transferring any report, document, or other matter, after having once been set in type, to either the journals of the senate or of the house of representatives, or to the legislative documents, when the same is requisite, ten cents per 1000 ems.
Transferring.	12. The auditor of public accounts may advance to the public printer, from time to time, as the work may progress, any sum not exceeding eighty per cent. of the amount of public work actually done by him, under legal authority.
Auditor may advance.	

CHAPTER XX.

SURVEYORS.

ARTICLE I.

Bond and oath of office.

Bond.	§ 1. The surveyor of each county, before he enters on the duties of his office, shall give an obligation and good surety in the county court thereof, for the faithful and due execution of the duties of his station.
Clerk, attest, &c.	1. The clerk of the court shall attest and preserve the obligation.
Suits thereon.	2. Any person aggrieved may institute suit on such obligation. It shall not be discharged by the first recovery, but may be put in suit until every person aggrieved is indemnified.

ARTICLE II.

Powers and duties of a surveyor.

Deputies.	§ 1. On the recommendation of the surveyor of a county, one or more deputies may be appointed by the county court thereof, the court being satisfied of the qualification and fitness of such persons.
Duties and responsibility.	1. The principal shall be answerable for the conduct of his deputies.

2. A deputy surveyor may act in any case in which a principal could act.

3. He shall be subject to the same penalties as the principal, and may be removed at his discretion, which removal must be entered on the records of the county court.

§ 2. Every surveyor shall promptly and faithfully execute every order of survey, made by any court, of lands lying in his county, and make out and return a true plat and certificate thereof, accompanied by explanatory notes. If he fails to do so, he shall forfeit twenty dollars, to the party injured, and with his sureties shall be, moreover, liable, jointly and severally, to an action for damages, on his official bond.

§ 3. In surveying lands, which shall have been previously surveyed, he must execute the same by the magnetic meridian, but shall certify and show in his plat the degree of variation in the magnetic needle from the true meridian at the periods of the original survey and of the re-survey, if it can be done.

1. Every survey shall be made by horizontal measurement.

2. A surveyor failing to comply with any of the provisions of this section shall forfeit and pay to the party aggrieved fifteen dollars; and he, with his sureties, shall be liable to such party for any damage or costs sustained by such failure.

ARTICLE III.

Miscellaneous provisions.

§ 1. When the office of surveyor is vacant, the county court shall order the clerk to take charge of the books and papers of the said office, and the clerk during such vacancy shall give certified copies of the same, when demanded, which shall be evidence in any court as if certified by the surveyor. When another surveyor is qualified, the court shall order that he have charge of said books and papers.

§ 2. An order of survey may in any case be directed to any person, at the discretion of the court, or by the consent of the parties.

CHAPTER XXI.

POOR AND POORHOUSES.

§ 1. No person shall bring into this state from another state, or introduce from any county in this state into another county, any poor person, (except his father, mother, or child,) who is likely to become chargeable to the county in which such person may be introduced.

1. Any person offending herein shall, on the warrant of a justice or judge of the county court of the county ag-

1852.

Orders of survey.

Penalty for failure.

Lands previously surveyed.

Horizontal measurement.

Penalty for failure.

Vacancy.

By whom survey then made.

Bringing in poor.

Arrest of offender.

1852.

Committed in
default of bail.Security may
be required.On failure, sold
as vagrant.Land for poor-
house.Erecting house
&c.

Tax to pay for.

Superintendent.

His power.

Receiver.

To give securi-
ty.Tenure of of-
fice.

Beggars.

Receiver shall
report.

grieved, be apprehended and recognized with proper sureties to appear before the next county court to answer for such offense.

2. On his failure to give such sureties he shall be committed to jail until court, or until bail is given.

3. The county court may require such person to give an obligation, with good surety, that the poor person so introduced shall not become chargeable to the county.

4. On his failure to do so he shall be committed to the jail of the county, and shall, after reasonable notice, be sold, for twelve months, as a vagrant.

§ 2. Each county court shall have the power to purchase and receive a conveyance for not exceeding two hundred acres of land, to hold in trust for the purpose of erecting a poorhouse thereon, and for the use, sustenance, and accommodation of the poor of their respective counties.

1. The court may contract for erecting a poorhouse and other improvements on the land so purchased, and may purchase furniture for the house, and implements and other necessary property for the institution.

2. The court shall have power to levy a sum sufficient to pay for the land and the necessary improvements and repairs to be made thereon, and to support the poor of the county, and to pay the superintendent and other persons employed in the institution.

3. To appoint one or more superintendents of the poorhouse and premises, and of the poor of the county whom the court may order to be kept in the poorhouse.

4. And to vest the superintendent with power, by coercion, to cause any able bodied poor person, kept at such house, to labor.

5. To appoint a suitable person to receive the money levied for that institution, and to apply the same to the support of the poor in such house, and to allow such receiver a reasonable compensation for his services.

6. The court shall require of the receiver so appointed an obligation, with good surety, for the faithful appropriation and just account of all the money received by him; and the collecting officer shall pay over to such person the money levied to carry on the institution.

§ 3. Superintendents and receivers shall each hold their offices during the pleasure of the court.

§ 4. Every person going about begging, or staying in any street or other place to beg, shall, on the warrant of the presiding judge of the county court, be sent to and kept at the poorhouse; if able to work, and a male, he may be proceeded against under the vagrant laws.

§ 5. The person appointed to receive and disburse the poorhouse funds shall annually report his receipts and disbursements to the county court for its approval.

§ 6. The county court in term, time, or the presiding judge in vacation, shall have the power to order a poor person to be taken to the poorhouse and supported, and to cause medical aid to be employed at the public expense for such of the poor of the county as may be proper.

1852.

Poor support-
ed,

Medical aid.

CHAPTER XXII.

COURTS.

ARTICLE I.

COURT OF APPEALS.

Concerning its jurisdiction.

§ 1. The court of appeals shall have jurisdiction, by appeal or writ of error, in matters of law, from the final order, judgment, or decree of any inferior court, except as otherwise provided in this chapter.

Jurisdiction.

No appeal shall lie unless where the order, judgment, or decree relates to an office, franchise, or freehold, or is against a divorce, if the matter in controversy does not amount, in value, to one hundred dollars, exclusive of interest and costs.

Cases under
\$100.

1. No writ of error or appeal shall lie in cases of felony; nor from a judgment under the acts concerning riots, routs, unlawful assemblies, and disturbances of religious worship; nor from a judgment, order, or decree from which an appeal is allowed to the circuit or county court; nor to a judgment of the county court disposing of an appeal thereto; nor from an order or judgment of any court punishing a contempt; nor from the judgment of a justice of the peace or the presiding judge of a county; nor from the judgments in any case of any tribunal not having jurisdiction in such cases beyond that of a justice.

Cases in which
no appeal or
writ of error
lies.

2. No writ of error shall lie to a bond having the force of a judgment.

ARTICLE II.

General provisions.

§ 1. The court of appeals has power to administer oaths, punish contempts, make rules for the government of its proceedings, not contrary to law or the constitution.

Oaths, con-
tempts, &c.

§ 2. A judge of the court of appeals shall have the power to reinstate attachments, injunctions, and restraining orders.

Reinstating in-
junctions, &c.

ARTICLE III.

Concerning appellate judicial districts.

§ 1. The state is divided into four appellate judicial districts, as follows:

Four districts.

1. The first district shall be composed of the counties of Mason, Nicholas, Bourbon, Clarke, Madison, Rockcastle;

First.

1852. Lewis, Fleming, Bath, Montgomery, Estill, Laurel, Whit-
ley, Harlan, Knox, Clay, Owsley, Letcher, Perry, Breath-
itt, Morgan, Lawrence, Carter, Greenup, Johnson, Floyd,
Pike, and Pulaski.

Second. 2. The second district shall be composed of the counties
of Bracken, Pendleton, Campbell, Kenton, Boone, Gallat-
in, Carroll, Trimble, Henry, Owen, Grant, Harrison, Scott,
Fayette, Jessamine, Garrard, Boyle, Mercer, Anderson,
Franklin, Woodford, Shelby, and Oldham.

Third. 3. The third district shall be composed of the counties of
Jefferson, Bullitt, Nelson, Spencer, Hardin, Meade, Larue,
Hart, Barren, Monroe, Cumberland, Clinton, Wayne, Rus-
sell, Casey, Lincoln, Washington, Marlon, Taylor, Green,
and Adair.

Fourth. 4. The fourth district shall be composed of the counties
of Fulton, Hickman, Ballard, McCracken, Graves, Callo-
way, Marshall, Livingston, Crittenden, Union, Hopkins,
Caldwell, Trigg, Todd, Logan, Simpson, Warren, Allen,
Christian, Henderson, Muhlenburg, Daviess, Ohio, Butler,
Edmonson, Hancock, Grayson, and Breckinridge.

ARTICLE IV.

Concerning special judges.

Governor to select special judge. § 1. Whenever a majority of the judges cannot sit on the
trial of a cause or causes pending in said court, for the
reasons prescribed in the constitution, the governor shall
select a judge or judges from the members of the bar, or
circuit judges of the state, to act with the other judges, as
the court, in hearing and deciding such cause or causes;
the court shall appoint a day for the trial of such cause or
causes; and the court, so organized, may meet and adjourn
from day to day, until it disposes of its business.

Failure to act. § 2. If any of the special judges, so selected, refuse
or fail to act, the vacancy may be supplied in like man-
ner.

Selection entered of record. § 3. When it becomes necessary to select judges, as pro-
vided in the last preceding section, the court shall make
an entry of the fact on its record, and cause a copy of it
to be delivered to the governor, who shall, thereupon, se-
lect and commission special judges for the occasion, and
cause their commissions to be delivered to them; and the
clerk shall notify the persons selected of the time fixed for
the trial of the cause or causes.

Parties may select. § 4. The parties may select the judge or judges provided
for in the preceding section, or permit any one of the
judges of the court of appeals to make the selection; and
the judges so selected may proceed to act without commis-
sions.

Oath. § 5. Every judge of the court of appeals, and every per-
son selected for the trial of special causes, before he enters

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on the discharge of his duties, must, in addition to the oaths prescribed in the constitution, take the following oath:

1852.

I, A B, do solemnly swear, (or affirm,) that I will administer justice, without respect to persons, and do equal right to the poor and to the rich; and I will faithfully and impartially discharge all the duties incumbent on me as a judge of the court of appeals, according to the best of my ability.

Entries on order book.

§ 6. The commissions of judges, the selection of temporary judges, the reason for such selection, and the fact that the requisite oaths have been taken, must be entered on the order book of the court.

ARTICLE V.

Concerning its proceedings.

§ 1. The writs and process, and mode of proceeding in the court of appeals, as now established, shall remain until changed or abolished by rule or order of court.

Writs, process, &c.

§ 2. No suit, process, matter, or thing returned to or pending in the court of appeals, shall be discontinued, although a quorum of judges may fail to attend at the commencement, or on any other day of a term.

No discontinuance for want of quorum.

§ 3. If a quorum of the judges do not attend on the first day of the term, the court shall stand adjourned from day to day for ten days, unless a quorum sooner attend. If, for any cause, the court does not sit on any day of a term, the court shall not be thereby adjourned, but may meet again and proceed to business on another day prior to the next succeeding term.

Adjournments.

§ 4. The court may adjourn from time to time to suit its convenience, not beyond the commencement of the next regular term; and if, for any cause, a quorum be not present, the judge or judges in attendance may so adjourn. The period of such adjournment shall not be computed under the rules of the court a part of the term.

§ 5. All process issued from the court shall bear teste in the name of the clerk.

Teste.

§ 6. The decisions of the court must be so written as to show the governing principle thereof, except in cases involving matters of fact only.

Decisions.

The court must deliver written opinions on all motions made in the court, which involve any principle of law or rule of practice not previously settled by the court, and reported.

Written opinions.

§ 7. The court shall annually appoint one of the judges thereof to inspect the clerk's office of the court, and to report its condition to the next term thereof; which report shall be placed on the records of the court, and such action taken thereon as may seem proper.

Inspection of clerk's office.

§ 8. If the court is equally divided in the decision of a cause, the judgment, decree, or order of the inferior court is to stand affirmed.

Court divided.

§ 9. The court shall annually hold two terms, commencing

Two terms annually.

1852.

ing on the first Mondays in June and December, and shall sit forty-eight juridical days at each term, and longer if the business require it.

ARTICLE VI.

Concerning the reporting of its decisions.

Reporter.

§ 1. The court of appeals shall, biennially, appoint a reporter of its decisions.

1. The appointment must be entered on its records.

2. The court shall direct what decisions, delivered by it, are to be published.

Reports, how printed.

§ 2. The reporter shall have the decisions of the court printed in letters and on paper of proper size and of superior quality.

Compensation.

§ 3. The reporter shall be allowed by the state after the rates of one dollar for every one hundred pages of the decisions, tables, and indexes so printed and well bound in calf skin, with good indexes and marginal notes.

Court's certificate.

1. The court must certify that the work meets their approbation, and was published by their consent.

Deposit with secretary.

2. Upon the deposit of two hundred copies of a volume of reports so published with the secretary of state, the secretary shall draw an order on the auditor of public accounts for the price, which shall authorize the auditor to issue a warrant on the public treasury for such price.

ARTICLE VII.

CIRCUIT COURTS.

Their appellate jurisdiction.

Appeals, &c., from county courts.

§ 1. Appeals and writs of error lie from the decisions of county courts to the circuit court of the same county, in all controversies concerning the establishing, alteration, or discontinuance of ferries, roads, and passways, and in all cases concerning the probate of wills, and from orders concerning mills or water works, and from orders refusing or allowing dams to be built across water courses.

From quarterly courts and justices.

§ 2. Appeals lie to the circuit court from the decisions of the quarterly courts, and of justices of the peace, and of other tribunals having the like civil jurisdiction as justices of the peace, in all civil cases where the amount in controversy, exclusive of interest and costs, is sixteen dollars and upwards; and in all actions of trespass, and trespass on the case, before justices of the peace, the party aggrieved shall have the right of appeal to the circuit court of the county in which the case is tried.

ARTICLE VIII.

Original jurisdiction.

Original jurisdiction.

§ 1. The circuit court has original jurisdiction of all matters, both in law and equity, within its county, of which jurisdiction is not, by law, exclusively delegated to some

other tribunal; and has all power necessary to carry into effect the jurisdiction given.

1852.

ARTICLE IX.

Power of circuit judges out of court.

§ 1. Each circuit judge shall be a conservator of the peace throughout the state.

Power of judge out of court.

And he may grant writs of error *coram vobis et nobis*.

ARTICLE X.

Concerning judicial districts.

§ 1. The state shall be divided into twelve circuit court judicial districts, as follows:

Twelve districts.

First District—Fulton, Hickman, McCracken, Graves, Calloway, Marshall, Livingston, Crittenden, and Ballard.

Second District—Caldwell, Trigg, Christian, Todd, Hopkins, Union, and Henderson.

Third District—Daviess, Hancock, Ohio, Grayson, Breckinridge, Meade, Hardin, Muhlenburg, and Larue.

Fourth District—Butler, Logan, Simpson, Allen, Monroe, Barren, Hart, Edmonson, and Warren.

Fifth District—Cumberland, Clinton, Wayne, Pulaski, Casey, Lincoln, Taylor, Green, Adair, and Russell.

Sixth District—Bullitt, Jefferson, Spencer, and Shelby.

Seventh District—Nelson, Washington, Marion, Mercer, Boyle, Garrard, and Anderson.

Eighth District—Oldham, Henry, Trimble, Carroll, Owen, Gallatin, Boone, Grant, and Kenton.

Ninth District—Campbell, Pendleton, Mason, Bracken, Nicholas, Harrison, Bourbon, and Scott.

Tenth District—Bath, Fleming, Lewis, Greenup, Carter, Lawrence, Montgomery, and Morgan.

Eleventh District—Franklin, Woodford, Jessamine, Fayette, Madison, Estill, and Clarke.

Twelfth District—Rockcastle, Knox, Harlan, Laurel, Whitley, Clay, Perry, Owsley, Letcher, Breathitt, Floyd, Pike, and Johnson.

ARTICLE XI.

Concerning the time of holding courts.

§ 1. A circuit court shall be holden at the court house in each of the counties in the state. It shall be a court of record. The terms shall be holden at the times required by law.

Time holding court.

§ 2. When the business of the court may require it, the judge, by order of the court, shall extend the term of such court, when it can be done without interfering with any other term of the court in his district.

Terms may be extended.

1852.

ARTICLE XII.

*Concerning special terms.*Special chan-
cery and crimi-
nal terms.

§ 1. When the business requires it, a circuit judge may hold a special term in any county in his district for the trial of chancery, penal, or criminal causes, or either. Preparatory steps and interlocutory orders may be taken in any civil cause, at any stated or special term for the trial of chancery, criminal, or penal causes.

Jury.

1. The judges may, in term time, or in vacation, order a grand and petit jury to be impaneled at any special term.

Notice.

2. If the order be made in vacation for a special term, notice thereof shall be posted up at the court house door ten days before its commencement, and parties to a suit may agree that the court may hold a special term for the trial of such suit without notice.

Orders.

3. All orders for or concerning a special term must be entered on the records of the court.

ARTICLE XIII.

*Concerning special judges.*Election of
special judge.

§ 1. When, from any cause, the judge of the circuit court fails to attend, or if in attendance, cannot properly preside in a cause or causes pending in such court, the attorneys of the court who are present, shall elect one of its members then in attendance, to hold the court for the occasion, who shall accordingly preside and adjudicate.

Held by clerk.

1. The election shall be held by the clerk, and in case of a tie, he shall give the casting vote.

Powers, &c.

2. The person elected shall, during the period that he acts, have all the powers and be liable to all the responsibilities of a circuit judge.

Compensation.

3. He shall be paid for his services a sum bearing the same proportion to the salary of the circuit judge as the time he may serve shall bear to the whole number of judicial days in said circuit.

Certificate of
service.

4. The period of service must be certified by the clerk to the auditor of public accounts, who shall ascertain the amount and draw his warrant on the treasury therefor; and the same shall be deducted from the judge's salary.

Failure to act.

5. If the person first elected to act as judge *pro tempore* fails or refuses to act, or cannot properly preside, another election shall be held, in like manner, from time to time, until a suitable person is chosen who can and will preside.

Selection by
parties.

6. Or the parties may agree upon an individual to preside, and the person agreed on shall have the same power and be paid in the same manner as if elected by the bar.

Oath.

§ 2. Every judge of the circuit court, and every special judge, before entering on the discharge of his duties, must, in addition to the oaths prescribed by the constitution, take an oath as follows:

I, A. B., do solemnly swear, (or affirm,) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge all the duties incumbent upon me as a judge, according to the best of my abilities.

1852.

§ 3. The commissions of judges, the selection of temporary judges, the reason of such selection, and the fact that the requisite oaths have been taken, must be entered on the order book of the court:

Entries on order book.

ARTICLE XIV.

Duties of the court.

§ 1. If a court does not sit at any term, or does not continue to sit the whole term, or shall not, before the end of the term, have heard and determined all the causes pending in court, the causes on the docket, or such of them as are not disposed of, shall stand continued until the succeeding term, without any special order or fee to the clerk for such continuance.

Continuance of cause.

§ 2. If, after a court has been opened at any term, it does not, from any cause, sit on any day of the term, there shall be no discontinuance of the court, or of the suits pending in the court; but so soon as the cause is removed the court may proceed to business until the end of the term, if the business require it.

No discontinuance from failure of court to sit.

ARTICLE XV.

CONCERNING THE FRANKLIN CIRCUIT COURT.

§ 1. The Franklin circuit court shall have jurisdiction, in behalf of the commonwealth, of all causes, suits, and motions against clerks of courts, collectors of public money, and all public debtors or defaulters of any denomination, and others claiming under them; and for this purpose its jurisdiction shall be co-extensive with the state.

Franklin circuit court, special jurisdiction.

ARTICLE XVI.

§ 1. The judge of the Franklin circuit court shall hold a term on the last Monday in January in each year for the trial of suits and motions in behalf of the commonwealth, and continue in session for six days or longer, if the business require it.

Special term for suits in behalf of the commonwealth.

§ 2. The court may try such causes at its regular terms; motions may be set for trial on any day of the special or other terms.

May be tried at regular terms.

ARTICLE XVII.

QUARTERLY COURT.

Concurrent original jurisdiction.

§ 1. The quarterly court of the presiding judge of each county shall have concurrent original jurisdiction, both in law and equity, with justices of the peace, in all civil cases.

Jurisdiction.

1852.

Trial in defendant's district.

Proceedings against constables.

Cases not exceeding \$100.

Jury.

But this section shall not authorize the trial of a cause of which a justice has jurisdiction, out of the justice's district in which all the defendants reside, if any of the defendants reside in the county, without the consent, in writing, of the defendant or defendants; and unless such consent be given, the officer executing the warrant shall return the same for trial before a justice of the peace in the district of the defendant's residence.

§ 2. It shall have jurisdiction throughout the county in proceedings against constables for defalcation in office.

§ 3. It shall have concurrent jurisdiction with the circuit court in all civil cases where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs, and where the right to or boundary of real estate is not drawn in question.

§ 4. It has power to impanel a jury.

ARTICLE XVIII.

Powers of the Presiding Judge out of court.

Judge conservator of peace.

Penal and criminal cases.

Injunctions, &c.

Idiots and lunatics.

To keep a record, &c.

§ 1. The presiding judge of the county court shall be a conservator of the peace within his county.

He shall, also, have all the powers of a justice in penal and criminal proceedings, and of a court of inquiry in such proceedings.

§ 2. The presiding judge of the county court is authorized to grant injunctions, and attachments at common law or in chancery, from his own court or the circuit court of his county.

1. He shall have jurisdiction to hold inquests upon idiots and lunatics.

2. He shall keep a record of all his official acts out of court, and in or out of court he shall have power to administer oaths.

ARTICLE XIX.

When to be held, and its duties.

Quarterly terms.

How long.

Process to whom directed.

Judge to act as clerk.

Docket.

§ 1. The presiding judge of the county in each county shall hold a quarterly term at the court house thereof, at the times prescribed by law.

§ 2. The court shall remain in session at each term until it disposes of all the business on docket.

§ 3. Process returnable to the quarterly court may, at the discretion of the plaintiff, be directed to the sheriff or coroner, or to a constable.

§ 4. The presiding judge of the quarterly court shall act as clerk of his own court, and issue all process returnable thereto. He shall keep a docket, order book, and execution book.

1. In making out his docket and drawing up the proceedings of the court, in keeping an execution book, and

In every other ministerial act done by him, he shall be governed by the laws prescribing the duties of clerks.

2. The court must, by rule, fix a monthly return day of executions, and other rules to govern its proceedings.

3. When the sum in controversy is over fifty dollars, a tax of fifty cents shall be paid to the presiding judge by the plaintiff in each cause before suing out the original process therein, which shall be annually accounted for and paid into the treasury in the same manner that clerks of circuit courts are required to account for and pay over similar taxes.

4. Copies of records in the quarterly county court, certified by the judge, shall be evidence.

§ 5. In controversies over fifty dollars, the fees of the presiding judge and officer executing the process shall be the same that the circuit court clerk and sheriff are entitled to for similar services, shall be due at the same time, and collectable in the same manner.

1. In controversies not exceeding fifty dollars, the presiding judge and other officer's fees shall be the same, and be due at the same time, and collectable in the same manner, that justices' and constables' fees are due and collectable for similar services.

2. The presiding judge shall be liable to the same penalties, in the same manner, for issuing an illegal fee bill or making an illegal charge, that justices of the peace are now liable to in similar cases.

§ 6. In cases before the quarterly court, where the sum in controversy is over sixteen dollars, exclusive of interest and costs, either party may have a change of venue to the circuit court of the same county, by the order of a circuit judge, upon the person desiring the change making affidavit that he does not believe he can obtain a fair trial before the presiding judge.

ARTICLE XX.

COUNTY COURTS.

Concerning their original jurisdiction.

§ 1. In addition to the jurisdiction given to the county courts by the revised statutes, or any statute of a local character, they shall severally have jurisdiction within their respective counties—

1. To lay and superintend the collection and disbursement of the county levy.

2. To erect, superintend, and repair all needful public county buildings and structures.

3. To superintend and control the fiscal affairs and property of the county, and to make provision for the maintenance of the poor.

§ 2. The county court may impanel a jury of bystanders, if either party requires it, on the trial of cases in bas-

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Return of executions.

Tax.

Copies of records.

Fees, cases over \$50.

Cases under \$50.

Illegal fee bills, &c.

Change of venue.

County levy.

County buildings.

Fiscal affairs, &c.

Bystanders.

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tardy; such juries shall receive no compensation for their services.

Incidental
power.

§ 3. It shall have all incidental power necessary to carry into effect its jurisdiction.

ARTICLE XXI.

Concerning their appellate jurisdiction.

Appellate.

§ 1. It has jurisdiction of all civil cases by appeal from the decision of justices of the peace, where the amount in controversy, exclusive of interest and costs, is over four dollars, and is under sixteen dollars.

ARTICLE XXII.

Who to compose county courts, &c.

§ 1. The office of associate judge of the county court is abolished.

Court held by
presiding judge.

§ 2. A county court shall be held in each county, at the seat of justice thereof, by the presiding judge of the court, on the days prescribed by law.

Court of claims.

1. But at the court of claims, which shall be held in October of each year, the justices of the peace of the county shall sit with the presiding judge and constitute the court. If the circuit court of any county is held in October, then the court of claims for such county must be held in November.

Quorum.

2. A majority of the justices in commission in the county, and the presiding judge, shall constitute a quorum to do business.

Justices may
be summoned.

3. The presiding judge may cause the justices of the county to be summoned to attend at other terms of the court, if he thinks proper.

When to com-
pose part of
court.

4. But justices of the peace shall only compose a part of the court when it is engaged in laying the county levy, and in appropriating money, and in transacting other financial business of the county.

Pay.

5. The justices who attend court and assist in transacting business shall each be allowed one dollar per day for his services, to be paid out of the county levy.

Failure of jus-
tices to attend.

6. If a majority of the justices of the county do not attend at a court of claims, or at any other court, when summoned to attend, the court may be adjourned from day to day, until a quorum shall attend; and an attachment may be awarded against defaulters to coerce their attendance.

Oath of pre-
siding judge.

§ 3. The presiding judge of the court, before he enters on the duties of his station, must, in addition to the oaths required by the constitution, take an oath or affirm to administer justice without respect to persons, and to do equal right to the poor and the rich, and that he will faithfully and impartially discharge the duties of his office to the best of his skill and judgment.

Records of old
county court.

§ 4. The records and official papers of the county courts heretofore existing, and of the clerks' offices of such courts,

shall be kept by the clerks in their offices, and held and regarded as the records and official papers of the county courts and clerks' offices of the court hereby organized in the same counties.

1. Official copies, certified by the clerks of the courts hereby organized, shall be evidence.

2. No county court clerk shall practice law in the court of which he is clerk.

3. Nor shall any practicing lawyer keep his office in any room in which the records of the clerk are kept.

§ 5. The county court is a court of record.

1. Before every adjournment, the minutes of the proceedings of the court shall be publicly read by the clerk, and corrected, if necessary, and then the same shall be signed by the judge or presiding justice.

2. The minutes signed shall be taken in a book and carefully preserved among the records; and no proceedings of the court shall be valid until the same be so read and signed.

§ 6. When a county court and a quarterly court are to be held on the same day, the former may complete its business first, or may adjourn a part of it to accommodate parties, and proceed with the business of the quarterly court.

The county court has power to adjourn from time to time until it disposes of all the business on the docket. But no adjournment shall be to a time beyond the commencement of the next regular term of the court.

§ 7. It shall be the duty of the county court of levy and disbursements to erect and to keep a sufficient county jail.

1. On a failure to do so, each member of the court shall be liable to be indicted and fined not less than fifty nor more than one hundred dollars and costs, and shall stand committed until the same is paid. No member shall be liable if it shall appear that he did not oppose the erection and keeping a good and sufficient jail.

2. They and their representatives shall, moreover, be liable, jointly and severally, for damages to any one injured by such failure.

§ 8. The records of the county court shall, at all times, show by whom the court is holden; when justices of the peace compose a part of the court, the records must state the names of such as take their seats, and when a member leaves the bench his absence must be noted.

§ 9. If a levy be not made at the time prescribed, it may be made at a subsequent time.

§ 10. The court, at the court of claims, shall make an allowance to the presiding judge out of the county levy, for his services in holding the monthly courts.

1852.

Official copies.

Restrictions on clerk.

Court of record.
Minutes.

County and quarterly court same day.

Adjournment.

To erect and keep jail.

Fine for failure.

Liable for damages.

What record must show.

Levy, when made.

Allowance judge.

1852.

ARTICLE XXIII.

*Concerning settling the accounts of fiduciaries.*Settlements
with personal
rep., guardians,
&c.

§ 1. The presiding judge of the county court shall make settlements with personal representatives and guardians in his county.

Compensation.

1. He shall be allowed one dollar and fifty cents for each settlement. If the same occupies him more than one day, then one dollar and fifty cents per day, to be paid out of the estate settled.

Commissioners,
law repealed.

2. The law requiring three commissioners to be appointed to make such settlements is hereby repealed.

When judge
cannot act.

3. If, in any case, the judge cannot make such settlement with propriety, then the clerk of the county court may make the same. If he cannot act with propriety, the judge may appoint some discreet person, not of kin to either party, to make the settlement.

Standing com-
missioner.

4. The judge may, if he thinks proper, appoint a standing commissioner to make such settlements.

Duty of judge
to make state-
ments.

§ 2. It shall be the duty of the presiding judge of each county, when called on by a personal representative or guardian, or committee, or any person interested, to state and settle the accounts of such fiduciary.

To hear evi-
dence.

1. He shall have power to hear testimony on such settlement in support or in opposition to any item.

2. He must reduce to writing all verbal evidence adduced before him.

3. He is in all cases to be governed by law and justice, and shall give no credit to a fiduciary for disbursements or for services without evidence to justify the same.

Report.

4. His report, in writing, he shall return to the clerk of the county court. The report shall show the result, giving items of debit and credit, and he shall return therewith all vouchers and evidence adduced before him on the settlement.

Exceptions
thereto.

5. The clerk shall indorse on the report the time of filing the same, and it shall lay over one term for exceptions to be filed by any person interested.

6. If no exceptions are filed by the second term of the court, the report shall, if approved, be recorded.

May be amend-
ed.

7. If exceptions are taken, other evidence besides that reported may be heard, and the court shall, upon the whole case, alter or amend the report and order it to be recorded, or so order it without altering or amending it, as shall appear right and legal. The vouchers accompanying the report shall not be recorded, but must be carefully kept on file in the clerk's office.

New evidence.
Settlement ev-
idence.

8. Any new evidence given in court must be reduced to writing and filed with the report.

9. Settlements so made and recorded shall be *prima facie* evidence between the parties interested.

10. Notice of the time and place of such settlement must be given to all parties interested, if resident in the county. Any fiduciary failing to settle when so notified, without good excuse, shall, on notice thereof, be fined by the county court twenty dollars.

1852.
Notice, fine for failure to attend.

11. Witnesses may be summoned at the instance of either party, to give evidence before the judge on the settlement, or on the trial of exceptions by the court, and their attendance may be coerced by attachment and fine.

Witnesses.

12. In making settlements the judge may adjourn from day to day, so long as the business requires it.

Judge may adjourn.

13. He may interrogate personal representatives and guardians, on oath, touching any matter drawn in question in making a settlement, and their statements, when so interrogated, must be reduced to writing and returned with the report.

May interrogate fiduciary on oath.

14. No evidence shall be presumed to have been given on a settlement except such as is reported.

Evidence reported.

ARTICLE XXIV.

OF JUSTICES OF THE PEACE.

Their jurisdiction in criminal and penal cases.

§ 1. Every justice of the peace shall be a conservator of the peace in his county:

Conservator of peace.

§ 2. He shall have jurisdiction in all penal cases where the fine or penalty is so regulated by law that it cannot exceed sixteen dollars, except where the jurisdiction thereof is otherwise specially conferred.

Jurisdiction in penal cases.

§ 3. Two justices have jurisdiction to examine into all infractions of the penal and criminal laws, the final trial of which is cognizable in the circuit court, and when proper to send the accused on for further trial, to commit him to jail, or to allow and take bail.

Examining court.

§ 4. A justice shall have jurisdiction to try persons for routs, riots, breaches of the peace, and disorderly conduct.

Jurisdiction in routs, riots, breaches of the peace, &c.

1. To bind persons to keep the peace, and for their appearance at the proper court.

2. He may have a jury impaneled at the request of either party, in any case where a jury is allowed by law.

3. He may grant a new trial or rehearing of any case, civil or penal.

New trials.

4. The power to grant a new trial or rehearing expires after ten days from the date of the verdict or judgment.

ARTICLE XXV.

Of civil matters.

§ 1. A justice of the peace has original common law jurisdiction in all cases of contract, written or verbal, express

Cases not exceeding \$50.

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Law and equity cases not exceeding \$16.

Process.

Subpœnas.

Oaths.

Motions against constables.

Idiots and lunatics.

or implied, where the debt or damages claimed, exclusive of interest, does not exceed fifty dollars.

1. He has original jurisdiction, in law and equity, of all cases where the amount in controversy does not exceed sixteen dollars.

2. He has power to issue original or final process in any case within his jurisdiction, or which any statute may make it his duty to issue.

3. To issue subpœnas for witnesses.

4. To administer an oath in all cases where it is required by law, or necessary in the exercise of his jurisdiction.

§ 2. A justice has jurisdiction of motions against constables for failing to make proper returns, and for failing to pay over money under process from a justice.

§ 3. The jurisdiction of justices of the peace in cases of idiocy and lunacy is hereby repealed.

ARTICLE XXVI.

Chancery jurisdiction.

By attachment.

§ 1. He has jurisdiction, by attachment in behalf of the plaintiff in a judgment for less than fifty dollars, upon which execution issues and is returned as to any part thereof no property found, against any person indebted to the defendant in the judgment.

Against non-residents.

1. He has jurisdiction of cases to subject the choses in action and personal property of non-residents, or persons who have been absent from the state four months, to the payment of demands over which a justice has legal jurisdiction.

Concurrent.

2. The jurisdiction given by this article, (except for sums under sixteen dollars,) is concurrent with the circuit courts and quarterly courts.

All power necessary.

§ 2. A justice has all power necessary to carry into execution the jurisdiction conferred on him.

ARTICLE XXVII.

Concerning their official oaths.

Time fixed by presiding judge.

§ 1. Every justice of the peace, before he enters on the duties of his office, shall take the oaths prescribed by the constitution.

ARTICLE XXVIII.

Concerning justices' courts.

§ 1. Each justice of the peace shall hold a court (for the trial of civil causes,) in his district, on a day to be fixed by the presiding judge of the county court, in the months designated by law, and shall continue his court from day to day, until he disposes of all the business returned before him.

§ 2. Every justice's court is a court of record, and each justice shall, in a book provided by him for that purpose, keep a full and fair record of his judicial proceedings.

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Court of record.

1. He shall make and keep with such book a good index of the names of litigants, referring to the pages in the book of every entry in each cause.

Record, how kept.

2. All warrants and motions shall be docketed and tried, or continued, by justices, in the succession in which the warrants or notices of the motions are returned before him for trial.

3. Depositions may be taken and read on trials before justices in the same manner and on the same grounds as in the circuit courts, except that the same may be taken before and certified by a justice of the peace.

Depositions.

4. No warrant or notice shall stand for trial unless it has been executed five days before the day set for the trial thereof.

Process to be served five days before trial.

§ 3. A party to a suit pending before a justice shall have a change of venue to another justice, when he shall make oath that he believes he cannot have a fair trial in the justice's court before whom the cause is pending, and the cause may be tried out of term time by the justice to whose court it is removed.

Change of venue.

§ 4. If the justice before whom a cause is returned for trial does not attend, or cannot try the same, any other justice of the same county may attend and try and decide the cause.

Trial before a different justice.

§ 5. Any justice who intends to be absent from the county in which he resides for more than a week, or if from any cause he is unable to act, shall deposit his records with some convenient justice, who may grant any appeal, or allow any traverse to be filed, give a certified copy of any judgment, or issue any process which the justice could who rendered the judgment.

Justice about to be absent to deposit records.

1. If the books are not deposited with another justice, if he can get possession thereof, he may, at any time during such absence or disability, act as if they were so deposited.

When not deposited.

2. If a justice shall vacate his office, the nearest justice to his residence may act, as is provided in the preceding part of this section, until the vacancy is filled.

When office vacated.

3. The successor of a justice may act on the judgments and records of his predecessor in the same manner that the latter could do, were he still in office.

Successor.

4. When a justice is appointed, the county court shall make an order directing what books of his predecessor shall be placed in his hands.

Books of predecessor.

LAWS OF KENTUCKY.

ARTICLE XXIX.

Concerning the swearing of parties.

In trials before a justice of the peace, either party examine the other, upon oath, touching the matter on controversy, if present at the trial, or a resident of the county.

Summons
sued for.

When out of
county, interro-
gatories filed.

Judgment
against party re-
fusing to re-
spond.

Appeals.

1. A summons may issue requiring the appearance of the party whose examination is desired, if he be a resident of the county in which the case is pending.

2. If such party resides out of the county in which the trial is to be had, the opposite party may file interrogatories with the justice before whom the cause is pending, and swear that if answered truly they are necessary to obtain justice; a copy thereof must be delivered to the party to be interrogated, who shall make out, swear to, and file with the justice a plain direct response to the interrogatories, which may be read on the trial by either party.

3. The justice shall render judgment against a party who refuses to make a proper response to interrogatories, or to attend and answer before the justice when called on or summoned for that purpose as herein provided.

§ 2. The three preceding subsections shall apply to the trial of appeals from justices' courts.

ARTICLE XXX.

Concerning lost judgments.

New judgment
for judgment de-
stroyed.

§ 1. When the records of a justice are destroyed or lost, and a judgment so destroyed or lost remains unsatisfied, he may, on proper notice, render a new judgment for whatever is due.

1. If, on the trial, the judgment appears to be satisfied, such justice shall give judgment for the defendant's cost.

2. The justice shall state in his record of such trials that the proceedings are founded on a judgment which has been lost or destroyed. An appeal lies from such judgments as in other cases.

ARTICLE XXXI.

Miscellaneous provisions.

Blank war-
rants not to be
signed.

Copy of record

Court at any
time for criminal
or penal cases.

§ 1. No justice shall sign or knowingly permit his name to be signed to a blank warrant, under pain of being presented and fined ten dollars.

§ 2. On request, a justice shall give to any person desiring the same a certified copy of any record and proceedings in his custody, which copy shall be legal evidence.

§ 3. Justices may hold a court at any time for the trial of criminal or penal causes of which they have jurisdiction.

CHAPTER XXIII.

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EXECUTIONS.

ARTICLE I.

§ 1. The writ of *eligit* is abolished.

Eligit.

ARTICLE II.

Writs of fieri facias.

§ 1. A *feri facias* may issue on any final judgment or decree of a court of record, in *personam*, for a liquidated sum of money, and for interest and costs, or for costs alone.

Fieri facias.

§ 2. The form of a writ of *feri facias* may be in substance as follows, to-wit :

Form thereof

THE COMMONWEALTH OF KENTUCKY TO THE SHERIFF OF COUNTY, GREETING: We command you that of the estate of A. B. you cause to be made the sum of \$, which C. D., late in our court, hath recovered against him for debt, with interest thereon from the day of until paid; also the sum of \$, which, to the said C. D., in the same court, were adjudged for his costs in that suit expended, whereof he is convicted, as appears to us of record, and that you have the said sums of money before our said court on the day of , to render to the said C. D., his debt, interest, and costs, aforesaid, and have then there this writ. Witness, &c.

1. The form may be varied to suit each particular case.

2. All executions shall be returnable to some rule day of the court not under thirty nor over seventy days from the test.

When and how returned.

3. If a *fi. fa.* be satisfied, the officer may return thereon, in substance, "satisfied," unless it be by the sale of property, when the fact must be stated.

4. If satisfied in part, he must state what part and why the residue is not made.

5. If levied, and no sale has been made for the want of bidders, or no property has been found, he must state the facts.

§ 3. If a *feri facias* is issued, and the plaintiff desires to take out another, at his own proper costs, the clerk may issue the same, though the previous execution be not returned.

Fi. fa. at plaintiff's cost, when first not returned.

1. If it be returned in whole or in part not satisfied, a new one may issue.

When *fi. fa.* not satisfied.

2. On a joint judgment or decree against several, the execution must be joint.

On joint judgment, &c.

§ 4. No execution shall issue on any judgment or decree, unless ordered by the court, until after the expiration of ten days from the rendition thereof.

§ 5. Each court shall, by an order of record, appoint a monthly return day of executions.

Return days.

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ARTICLE III.

Defendant's estate bound.

Lien of *f. fa.* § 1. A writ of *fieri facias* shall bind the estate of the defendant only from the time the same is delivered to the proper officer to execute.

Time to be indorsed. 1. The officer to whom it is so delivered shall indorse thereon the day of the month, year, and time of day, when the same is received by him.

Priority. 2. If two or more executions are delivered to the officer on the same day against the same person, he shall satisfy that one first which comes first to his hands.

Pro rata. 3. When two or more executions come to an officer's hands at the same time, and he is unable to make the amount thereof, he shall apportion the sum made among the several executions so coming to his hands, according to the amount thereof.

ARTICLE IV.

A capias ad satisfaciendum allowed.

Capias. § 1. A *capias ad satisfaciendum* may issue, except against females, upon all judgments for a trespass, *vi et armis*, upon the person or property, for seduction, or for slander, written or verbal, or for a malicious prosecution. The court shall note, at the foot of the judgment, that a *capias ad satisfaciendum* may issue thereon. The form of such execution shall be, in substance, as follows, to-wit:

Form of THE COMMONWEALTH OF KENTUCKY TO THE SHERIFF OF COUNTY, GREETING: We command you that you take A. B., if he be found within your county, and him safely keep, so that you have his body before our judge (or justices) of our court, &c., the day of , to satisfy C. D., the sum of \$, which the said C. D. hath recovered against him for damages; also the sum of \$, which to the said C. D., in the same court, was adjudged for his costs; and that you have the same at , on the day of , to satisfy and pay the said C. D. his damages and costs aforesaid, and have then there this writ.

Witness, E. F., clerk of our said court, this day of June, 1851.

Prison rules. 1. The benefit of the prison rules is, in all cases, abolished.

Insolvent's oath. 2. No defendant shall be allowed to take the oath of an insolvent debtor until ten days after he has furnished the plaintiff or his attorney a copy of the schedule of his property he intends to surrender.

Return on *ca. sa.* 3. The sheriff or other officer may return on a *ca. sa.*, in substance: In virtue of this writ, I have taken the within named A B, and delivered him to the jailer of my county. This day of . Or, the within named A B is not found within my county. This day of .

§ 2. The death of a defendant imprisoned under a *ca. sa.* shall not release his estate from liability to the plaintiff.

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ARTICLE V.

How decrees in chancery may be enforced.

§ 1. A final order or decree for money, lands, slaves, or other specific things, may be enforced by any appropriate writ of execution, allowable on a judgment at law, according to the nature of the case.

Execution on a decree.

1. Such writ shall issue and be returnable as other writs of execution.

2. Nothing in this section shall prevent any party from proceeding to carry any order or decree of court into execution, according to the ancient practice of courts of chancery.

Ancient proceeding allowed.

ARTICLE VI.

Writs of venditioni exponas.

§ 1. When the sheriff or other officer shall return on a writ of *fiери facias*, that the estate levied on, or any part thereof, remains in his hands unsold, a writ of *venditioni exponas* may issue, directed to such officer.

Venditioni exponas.

1. Which writ shall be, in substance, as follows :

Form of.

THE COMMONWEALTH OF KENTUCKY TO THE SHERIFF OF COUNTY, GREETING: We command you that you expose to sale the estate of A B, to the value of \$, which, according to our command, you have taken into your hands, and which remains in your hands unsold, as you have certified to our court, to satisfy C D the sum of \$, whereof in our said court he hath recovered execution against the said A B, by virtue of a judgment in the said court, and that you have; &c.

2. The like proceedings shall be had on such writ as might and ought to have been had on the first execution.

Proceedings on.

3. An officer may, at any time after the return day, while the original execution is in his hands, sell any property taken by him, before the return day, in virtue thereof.

Sale on d. n. after return day.

ARTICLE VII.

Executions on judgments for specific property.

§ 1. When a judgment shall be recovered for a specified slave or other thing, the plaintiff may have an execution issued thereon, commanding the proper officer to take the thing so recovered, and deliver the same to the plaintiff.

Execution for specific property.

1. Or, the plaintiff may, if he so elect, take a writ of *fiери facias* for the assessed value of the thing recovered; and in either case he shall have execution for the damages assessed for the detention, and his costs.

A d. n. for assessed value.

2. The court may, upon satisfactory proof that the property recovered has perished, or that, without the fault of the defendant, it is out of his power to produce the same,

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order the plaintiff to receive the assessed value in lieu of such property.

ARTICLE VIII.

Concerning live stock or slaves.

Sustenance for
stock and slaves
levied on.

§ 1. When an execution is levied on a slave or live stock, and no forthcoming or replevin bond is immediately given, the officer shall provide sufficient sustenance for the slave or live stock so levied on, until the same is legally disposed of.

Allowance to
officer therefor.

1. In such case, the officer shall make a fair estimate of his expenses, and collect the same, subject to correction by the court.

2. Upon the return of the execution, if either party so desire, the court must fix what the officer shall be allowed for his expenses, which is to be considered a part of the taxed costs in the case, and collected accordingly.

3. When an execution which has been levied on slaves or live stock is quashed, enjoined, superseded, or suspended, the officer levying the same may have his expenses allowed, and issue his fee bill for and collect the same from the plaintiff in the execution.

4. Such expense, except when the execution is quashed, shall form a part of the costs, and be collected from the defendant if the stay or suspension be removed. If removed in part only, then in proportion to such part.

ARTICLE IX.

Defendants allowed to replevy.

Judgment re-
plevied.

§ 1. The defendants (except in the cases herein otherwise provided,) may, when there is no execution thereon in the hands of a collecting officer, replevy any judgment or decree for money, except decrees to enforce a lien, for three months before the clerk or justice of the peace, or judge of the quarterly court entering up the judgment or decree, by giving an obligation and good surety, to be approved of by such officer, in substance as follows:

Form of bond.

This day the defendant, A B, together with C D, his surety, came before me, as clerk of the court, (or before me, the presiding judge or justice of the peace of county,) and undertook that they would satisfy and pay E F his judgment, including interest (if any) and costs, amounting to , rendered in his favor against the said A B, by this court, (or by me,) within three months, with legal interest on the whole amount thereof from this date.

Executions re-
plevied.

§ 2. Any execution on a judgment or decree which could be replevied before such execution issued, may be replevied for three months at any time before a sale of the property under the same, by the defendant giving to the officer acting under the same an obligation, payable to the plaintiff, with good surety for the amount thereof including interest,

costs, and half commission up to that time. The obligation shall be, in substance, as follows :

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We, A B, principal, and E F, security, do bind ourselves, three months after the date hereof, to pay C D, the plaintiff in execution, the sum of \$, cents, to bear interest from this date, being the amount of an execution which issued from the clerk's office of the circuit court (or county court) of , (or the office of G H, a justice of the peace in and for county, as the case may be,) on the day of , in favor of the said C D, for the sum of \$, debt or damages, \$, interest, \$, costs of suit, \$, sheriff's (or constable's) half commission, amounting in the whole to the sum of \$, aforesaid, against the said A B; and we, the said A B and E F, his surety, have hereby replevied the same. Witness our hands this day of .

Form of bond.

§ 3. An agreement to waive the right to replevy, or any other legal agreement in relation to any judgment or decree, entered on the record among the orders of court, shall be specifically enforced. In such case the proper indorsement shall be made on the execution by the clerk, judge, or justice.

Waiver of right.

§ 4. No replevy shall be allowed upon a judgment against any collecting officer or attorney at law, or agent, for a delinquency or default in executing or fulfilling the duties of his office or place, or for failing to pay over money collected by him in such capacity, or against a principal by his surety, or of a debt due by obligation having the force of a judgment or of a judgment or decree for specific property, or for the property or its value.

No replevy allowed in certain cases

ARTICLE X.

Forthcoming bond.

§ 1. The owner of personal estate taken in execution may give to the officer levying on the same an obligation, with good surety, to have the property forthcoming at the time and place of sale, specifying therein each article of property, and its value.

Forthcoming bond.

1. The obligation shall be, in substance, as follows, viz :

We, A B, principal, and C D, surety, do bind ourselves that the property mentioned in the following schedule and valuation, to wit: , valued at \$, (naming each article and its value,) shall be forthcoming at , on the day of next, by the hour of twelve o'clock in the day. Witness our hands.

Form of.

2. Upon the giving of such obligation, the officer shall restore the possession of the property so taken in execution to the defendant, to remain with him, at his own risk and expense, until the time stipulated for its delivery.

Possession restored.

§ 2. If the defendants shall fail to pay or replevy the amount of the execution, and shall fail to deliver so much

Failure to pay or deliver.

1852.

of the property specified in the forthcoming obligation, or other property in its place sufficient to satisfy the execution and all costs and commissions, the officer shall return the execution and bond to the office whence the former is issued, and indorse on the execution the levy, the giving of the bond, and the particular property which is not forthcoming, and the other facts.

Liability of
surety.

1. The surety therein shall be liable only for the value of the property specified in the bond, which is not forthcoming, with interest thereon from the date of the bond, and the accruing costs.

When prop-
erty in bond not
sufficient.

2. If the property specified in a forthcoming bond is not of value sufficient to satisfy the execution and all costs and commissions, the proper officer may issue another execution, and credit the same with the value of the property specified in the bond.

Officer failing
to return forth-
coming bond.

§ 3. An officer taking a forthcoming bond, who shall fail to return the same to the proper office for twenty days after the failure to comply on the part of the defendant, shall, with his sureties, be liable to the plaintiff for the amount of the execution, costs, and commission, and twenty per centum thereon, to be recovered by action or motion against any one or more of them, or their representatives.

ARTICLE XL

Sale bonds.

Credit of three
months.

§ 1. In all cases where the right to replevy exists and is not exercised, sales under execution shall be on a credit of three months, upon the purchaser giving bond and good surety to the plaintiff in the execution, for the payment of the sale money, bearing interest from the date.

1. The bond shall be, in substance, as follows :

Form of bond.

We, A. B., principal, and C. D., surety, do bind ourselves to pay to E. F., within three months from the date hereof, the sum of \$, cents, with interest thereon from this date, being the purchase money for (here set out the several items of the property so purchased, with the price of each,) which was this day sold by G. H., sheriff, (or constable, &c., as the case may be,) of county, in satisfaction of an execution which issued from the office of the clerk of the circuit court, (or K. L., a justice of the peace for county, as the case may be,) on the day of , in favor of the said E. F., against M. O., for the sum of \$, debt or damages, with interest and costs. Given under our hands this day of

Bond to de-
fendant for ex-
cess.

§ 2. When property sold on a credit shall sell for more than will satisfy the execution, costs, and commission, the officer making the sale shall take a bond, payable to the defendant, the owner of the property, for the excess, similar in every other respect to that directed in this article to be taken to the plaintiff, and to have like force and effect,

and on which like proceedings may be had. If the property is sold for cash in hand, any excess, over satisfying the execution and charges and commissions, shall be paid over by the officer to the defendant whose property is sold.

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ARTICLE XII.

Bonds having the effect of judgments.

§ 1. Every bond taken on the sale of property under an order or decree in chancery, or on the sale of property under execution, and every replevin and forthcoming bond shall be signed by the principal and sureties, and attested by the person taking the same, or by some one in his presence.

Bond, how executed.

1. A bond so taken shall be returned to the proper office with a report of the acts of the person taking it; and if taken under an execution, the latter must be returned with the bond.

Return.

2. All such bonds shall have the force and effect of a judgment, and on which, if not paid at maturity, an execution may issue, and shall be indorsed that no surety of any kind is to be taken.

Force and effect.

§ 2. The officer taking any of the bonds aforesaid, and his sureties, or their representatives, shall be jointly and severally liable to the person injured for any damage he may sustain by taking surety thereon who is not good when received.

Liability of officer.

§ 3. If one of several obligors or obligees in any bond having the force and effect of a judgment, shall die before the same is satisfied, execution may issue on such bond in the name of the surviving obligee or obligees, against the obligors or the survivor.

Death of obligor.

§ 4. When all the obligees in such bond as is specified in the next preceding section shall die, their personal representatives may, if such bond is not satisfied, sue out execution thereon after its maturity, against the obligors or their personal representatives, if they are all dead, or if only part be dead, against the survivor and the personal representatives of the deceased.

Death of obligees.

§ 5. When a bond having the force of a judgment is quashed, a new execution may issue on the original judgment at the instance of the plaintiff, in the same manner as if such bond had never been given.

Bond quashed

ARTICLE XIII.

Lands liable to execution.

§ 1. Land to which the defendant has a legal title, in fee, for life, or for a term, whether in possession, reversion, or remainder, may be taken and sold under execution.

Land subject to execution.

§ 2. Land must be sold under execution to the highest bidder, on the first day of a county or circuit court, at the court house door of the county in which it lies.

When sold.

1852.	1. Only so much can be thus sold as will satisfy the execution under which the sale is made.
Quantity sold.	2. The officer making the sale must first advertise the time and place of making the same, by written notice set up at the court house door and three other public places in the vicinity of the land, for fifteen days next preceding the sale, therein describing the land to be sold.
Advertised.	3. Before a sale of land, the officer shall cause it to be valued, under oath, by two disinterested, intelligent house-keepers of the county, not related to either party. If they disagree, the officer shall act as umpire. If a part of a tract only is sold, the part so sold shall, after the sale, be valued in like manner.
Valued.	4. The valuation so made shall be in writing, signed by the persons making it, and returned with the execution, and the officer must refer to and explain the proceeding in his return on the execution.
Part sold to be designated.	§ 3. In making sale of land, when the whole tract shall be bid up to the amount required to be made, the defendant, his agent or attorney, if present, may designate off what side or end of the land the sale shall be made. If no designation is so made, the officer must declare which side or end he will sell; and in so doing, act according to what he may deem the best interest of the defendant.
Right of redemption.	§ 4. If the land sold does not bring two-thirds of the valuation, the defendant and his representatives shall have the right to redeem the same within a year from the day of sale, by paying the purchaser or his representatives the original purchase money and ten per centum per annum interest thereon.
Purchaser's receipt.	1. The defendant redeeming his land shall take receipt from the purchaser, and lodge the same with the clerk of the court, to be filed with the execution under which the sale is made.
Tender of redemption money.	2. The defendant may tender the redemption money to the purchaser, his agent, or attorney, if in the county where the land lies, or in the county where the judgment is obtained, and if the same is refused, or if the purchaser do not reside in either of said counties, the defendant may, before the expiration of the year, go to the clerk of the court whence the execution issued, and make affidavit of such tender and refusal, or that the purchaser, his agent or attorney does not reside in the county where the land lies, or whence the process issued, as he believes. Thereupon, he may pay to such clerk the redemption money for the purchaser, and the clerk shall give a receipt therefor and file the affidavit with the execution in his office.
Defendant keep possession.	3. When the right of redemption exists, the defendant shall remain in possession until it expires.
Not conveyed for one year.	§ 5. Land sold under execution which is subject to redemption shall not be conveyed by the officer making the

sale until the expiration of one year from the sale; nor shall he convey after that period if the land has been redeemed or the affidavit is made and money deposited with the clerk, as in this article provided, unless in pursuance to an order or decree of a court, or the written assent of the defendants in the execution.

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§ 6. The right of redemption herein provided for shall be liable to sale under execution. The land shall, in such case, still be subject to redemption by the defendant until the end of a year from the first sale. The purchaser of the right of redemption may, before the end of a year from the first sale, pay the prior purchaser his money and interest, as stated in this article; and shall be entitled to the land, unless redeemed by the defendant in the execution.

Right of redemption subject to execution.

§ 7. Land sold under an execution issued to another county than that in which the judgment was rendered, or than that in which the owner resides, at the request of the defendant, shall not be subject to valuation or redemption. The clerk shall indorse on such execution, that no valuation is to be made.

Land in another county.

§ 8. If the defendant shall hold the legal title to several tracts of land in the same county, he, or his agent or attorney, may, by writing, direct an officer having an execution against him, to make the amount of the same first out of such of the tracts as he may designate.

Where defendant owns several tracts.

1. Such direction shall not preclude the officer from levying on and selling other property at the same time, to supply the deficiency, if any, in the sale of the land designated.

2. The proper title papers must be delivered to an officer with the directions.

§ 9. At any time when there is no execution in an officer's hands, the defendant may make affidavit before the clerk in whose office there is a judgment or decree against him, that he has the legal title to land in another county than that in which the defendant resides, or in which the judgment or decree was rendered, and that the same will, as he believes, satisfy said execution; that the land is not in the adverse possession of another, and state his derivation of title to the land, and file his title papers with the clerk. He must further state in his affidavit that he desires an execution to issue to the county in which the lands lie. Thereupon, the clerk shall issue an execution to such county.

Defendants affidavit, &c., as to lands in another county.

1. But if the defendant fails to comply with any one of these requisitions, the clerk shall not, without the assent of the plaintiff, issue an execution to such county.

2. If the land is sold under the execution, the title papers deposited with the clerk shall, on request, be delivered to the purchaser of the land.

§ 10. The sheriff who sells land under execution, or his deputy, or the successor of the former, must convey the ti-

Sheriff to convey.

1852. the sold to the purchaser, or his assignee, or his heirs or devisees, if the same is not redeemed.

ARTICLE XIV.

Concerning the sale of property under execution.

**Property ex-
empt.** § 1. The same personal property shall be exempt from execution which is exempted from distribution.

1. And on all liabilities created after the 22d of March, 1851, the following additional property shall be exempt: one work horse; five head of sheep; one cooking stove and appendages, and other cooking utensils, not exceeding twenty-five dollars in value.

**Defendant may
give up exempt
property, &c.** 2. A defendant in an execution may give up for sale all or any part of the property exempt from execution or sale under a fee bill or an attachment, and take other property of equal value, to be ascertained by two disinterested housekeepers, selected by the officers making the levy.

**Order of li-
ability.** § 2. Property shall be liable to levy and sale under execution in the following order:

1. Personalty.
2. Slaves.
3. Lands.

§ 3. If there is not enough of that description of property first liable, the officer may levy on or sell others in succession, at the same time, until a sufficiency to satisfy the execution is seized and sold.

**Defendant may
direct.** § 4. The defendant may, on the day of sale, by writing, direct the property levied on to be sold in any succession he may desire; and he may produce other property, or the title to land in the county not levied on, and by writing direct the same to be first sold; and in that case the residue of the execution, costs, &c., if any, shall be made out of the property levied on.

Place of sale. § 5. Slaves must be sold under execution at the court house door of the county in which the levy is made, on the first day of a county court or circuit court. Personalty may be sold at or in the vicinity of the place of levy.

**Time, notice,
&c.** § 6. Slaves and personalty may be sold in ten days after the levy; the time and place of sale, and a description of the property, being first advertised, by setting up written notices ten days preceding, at three of the most public places in the vicinity of the place of sale.

Crops. § 7. No crop of any description shall be levied on or sold under execution, (unless it shall have been severed from the ground,) until after the first day of October in each year.

But if the estate of the defendant in the land is liable to be sold, and is levied on and sold, the title to the growing crop may pass by such sale.

ARTICLE XV.

1852.

Encumbered property may be sold.

§ 1. When the defendant in an execution shall have owned the legal title in any real or personal estate, and have created a *bona fide* incumbrance thereon, by mortgage, deed of trust, or otherwise, before an execution has created a lien on the same, the interest of the defendant in such property may be levied on and sold, subject to such incumbrance.

Defendants, interest in property mortgaged, &c., may be sold.

1. The purchaser at the sale shall acquire a lien on such property for the purchase money, and interest after the rate of ten per centum per annum from the day of sale until paid, subject to the prior incumbrances.

Purchaser's lien, ten per cent. interest.

2. Any other creditor, whether by judgment or not, may, after such execution and sale, by equitable proceeding, subject the incumbered property to sale, and, after satisfying prior liens, have his demand satisfied out of the proceeds of the residue. The proceedings in equity must be instituted before the purchaser has, by suit, removed the incumbrance.

Other creditors.

3. The defendant in the execution may redeem the property so sold by paying the original incumbrance, with legal interest thereon, and by paying the purchaser his purchase money, with ten per centum per annum interest thereon.

Defendant may redeem.

4. The purchaser of incumbered movable property must, before possession thereof is delivered to him, give an obligation, with good surety, payable to the incumbrancer and the owner, stipulating that the property shall not be removed out of the county, and shall be preserved and forthcoming, unavoidable accidents excepted, to answer the incumbrance, and for redemption, and deliver the obligation to the officer, to be returned with the execution.

Purchaser to give surety not to remove.

5. Courts of equity shall have the control of all incumbered property sold under execution, and the power to make all needful orders for the preservation and forthcoming of the property and its issues and profits, to satisfy the incumbrance, and to secure the rights of others.

Courts of equity to control.

§ 2. When an execution is placed in the hands of an officer for collection in a county in which the plaintiff does not reside, he may, by indorsement on the execution, name an agent in the county to which the execution is directed, who shall have power to receive and receipt for the money when collected.

Officer may appoint agent.

ARTICLE XVI.

Certain sales invalid.

§ 1. Sales made under execution by fraud, covin, or collusion, may be set aside on the motion of any person aggrieved, or by bill in equity.

What sales invalid, how set aside.

1852.

1. If by motion, it must be commenced within one year from the sale.

2. It must be made in the court whence the execution issued.

3. The parties affected by the motion must have ten days previous notice in writing, setting forth the grounds relied on for invalidating the sale.

Officer may
not buy.

§ 2. No officer shall, directly or indirectly, bid for or buy any property under an execution which may be sold by his deputy, or principal, or by his co-deputy.

1. The right of property so sold and purchased by any such officer, or by another to his use, shall not thereby be changed.

2. Any deed or bill of sale made for property so sold shall be void.

ARTICLE XVII.

To what counties executions may issue.

Execution to
another county.

§ 1. No execution shall issue to any other county than that in which the judgment was rendered, or that in which the defendant resides, until execution has issued to one of the counties named, and has been returned, by the proper officer, no property found, as to all or part thereof.

1. This section is not to apply when the plaintiff, his agent or attorney, shall make affidavit and file the same with the clerk, stating that the defendant has absconded, or removed to another county or state, or that he is about so to abscond or remove himself or effects, or part of them, out of the county where he resided at the date of the judgment, or that the defendant is by some other ways or means, (naming the same,) attempting to defraud the plaintiff in the collection of his debt; or that the defendant has no property subject to execution in the county of his residence or that in which the judgment was rendered; but on his filing such affidavit, an execution may issue to any county the plaintiff may direct.

2. The plaintiff shall be liable to the defendant for any damage he may sustain by procuring an execution to issue wrongfully under the first sub-section of this article.

Return by mail.

§ 2. No sheriff shall be required to go out of his county to return process in a civil case.

1. He may enclose such process with the return thereon (keeping a copy,) directed to the plaintiff, and send the same by mail to the county whence it issued.

2. When so sent in proper time and manner, the officer shall not be liable.

ARTICLE XVIII.

Duties and liability of certain officers.

Officer delay-
ing to advertise.

§ 1. When an officer shall delay advertising property for sale taken under execution for an unreasonable time, he may, on the motion of either the plaintiff or defendant in

the execution, be fined by the court whence the execution issued, not less than five nor more than twenty dollars and costs, to the use of the party making the motion.

1852.

1. The officer must have at least ten days previous notice, in writing, of such motion.

2. The officer shall, moreover, be liable to the action of the party aggrieved, for damages.

§ 2. When any writ of execution or attachment for not performing a decree in chancery is placed in an officer's hands to execute, and he shall fail to return the same by the return day thereof, the court whence it issued may, on motion, fine such officer, for the use of the party injured, not exceeding fifty dollars—three days previous notice of such motion being given.

Failing to make return.

§ 3. When a sheriff or other like officer shall have received the money or any part thereof, on any writ of execution or other process, and shall not immediately pay the same to the party entitled thereto, or his agent or attorney, on a proper demand thereof, he and his sureties, or any one of them, or his personal representatives, heirs, or devisees, shall be liable to such party for the amount collected, and fifteen per centum per annum interest thereon, from such demand until paid, and the costs of recovery, legal and extraordinary.

Failing to pay over money collected.

1. The remedy shall be by motion or suit in the court whence the execution issued.

2. Ten days previous notice of the motion, specifying the grounds thereof, shall be given.

§ 4. Any sheriff or other like officer, in whose hands a writ of execution is placed to do execution thereof, who fails to return the same to the office whence it issued, for thirty days after the return day of the same, without reasonable excuse for such failure, shall, with his sureties or the personal representatives, heirs, or devisees, be liable, jointly or severally, to the plaintiff in such execution, for the amount thereof, and thirty per centum damages thereon, and costs of recovery. The remedy shall be the same as is given in the next preceding section.

Failing to make return for thirty days.

But this section shall not apply where the defendant is insolvent, and has not property in the county out of which the execution, or any part of it, could be made; but in such case the liability shall be for thirty per cent. on the amount of the execution.

§ 5. When the sheriff or other like officer collects any money under an execution in his hands, and the defendant shall obtain an injunction or other writ staying proceedings on such execution, before the money is paid over to the plaintiff, the officer must pay the money, or the part for which the execution is stayed, to the defendant from whom it was collected.

Where injunction obtained before money paid over.

1852.

1. Any officer refusing to pay over money, as herein directed, shall be liable as in case of a refusal to pay over money to the plaintiff collected on execution.

Motions with-
in two years.

2. All motions allowed by this chapter must be commenced within two years after the cause of such motion accrues.

ARTICLE XIX.

Miscellaneous matters.

Executions
from county
judge or justice.

§ 1. Executions issued by a judge of a county court, on judgments or decrees at its quarterly sittings, or by a justice of the peace, shall bear test in the name of the officer issuing the same, and shall be governed by the provisions of this chapter, so far as the same are appropriate.

Against per-
sonal represen-
tatives, heirs,
&c.

§ 2. When an execution is issued jointly against a personal representative, and heirs and devisees, it shall be the duty of the officer in whose hands it is placed for collection, to sell first the estate in the hands of the personal representative; second, the estate descended to the heir; and third, the estate devised. The same order shall be observed when the execution issues against only two of the classes named.

But the defendants may, by writing, direct the sale to take place in any order they desire.

CHAPTER XXIV.

PENITENTIARY.

ARTICLE I.

Concerning the keeper.

Keeper elected.

§ 1. A keeper of the state penitentiary shall be elected every fourth year, by a joint vote of the two houses of the general assembly.

Term of office.

1. The present incumbent shall remain in office until the first of March, 1855, unless he sooner vacates the same; but his successor may be elected at the session of the general assembly in the year 1853.

2. He shall have the sole management of the institution.

3. He shall continue in office four years from and after the commencement of his term of service, and until a successor is appointed and qualified.

Oath and bond.

§ 2. The keeper shall, before entering on the duties of his office, take the oath prescribed by the constitution, and enter into an obligation, with good sureties, approved by the governor, in the office of the secretary of state, stipulating that he will faithfully perform the duties of keeper of the penitentiary, according to law, and pay over and account for any money or other thing advanced to him by the state, or that has or may come to his hands, at the

proper time and manner, and to the proper person, as required by law, and that he will pay to the state her share of the profits of the institution, at such times as the law may require.

1852.

§ 3. The keeper or clerk may be suspended by the governor, for good cause, when the general assembly is not in session, and may be removed from office by the joint vote of the two houses of the general assembly.

May be suspended.

§ 4. When, from any cause, the office of keeper or clerk of the penitentiary is vacant, or an incumbent is suspended, the governor shall appoint another person to discharge the duties thereof for the residue of the time, or until the suspension ceases.

Vacancy filled.

1. The person appointed by the governor must take an oath, and give such surety as is prescribed in this chapter.

2. Suit may be instituted on any of such obligations, from time to time, by any person aggrieved.

§ 5. The keeper shall procure the raw material to manufacture for the institution; and

Duties of keeper.

1. Dispose of all articles manufactured therein.

2. Provide for clothing and victualing the convicts.

3. And for their guard and safe keeping.

4. Defray all expenses of the institution, and see that accurate accounts of purchases, sales, receipts, and disbursements are kept, and that proper vouchers for disbursements are taken and preserved.

§ 6. The keeper shall make a biennial report to the general assembly, within the first week of the session, of the condition, operations, and business of the institution, for each year, and to the governor during the month of December of any year in which the general assembly does not convene.

Report.

ARTICLE II.

Concerning the clerk.

§ 1. The governor shall, by and with the advice of the senate, biennially appoint a clerk of the penitentiary, who shall continue in office for the term of two years, and until his successor is appointed and qualified.

Clerk appointed.

§ 2. Before the clerk enters on the duties of his office he must take an oath faithfully and impartially to perform the same.

Oath and bond.

1. He shall, also, execute and file in the secretary's office an obligation, with good sureties, to be approved by the governor, for the due and faithful performance of the duties of his office.

2. Besides the responsibility of the clerk and his sureties on his bond, he shall be liable to be indicted and fined not exceeding one thousand dollars, and imprisoned not exceeding six months, for willfully making any false or fraudulent entry, or for failing to make an entry with a fraudulent intent.

Liable to indictment & fine.

1852.

Salary.

§ 3. The clerk shall receive an annual salary of one thousand dollars, in quarterly payments, to be made by the keeper out of the profits of the institution.

Duties of clerk.

§ 4. The clerk of the penitentiary shall file and preserve the record of the conviction of each convict, and the certificate of his character, from the court that convicted him; and also keep a register describing him, and stating the time of his confinement, and for what offense he is confined, and when received into the institution. His certified copy from such record shall be *prima facie* evidence.

§ 5. He shall keep a true and faithful account of all the transactions, of every kind, relating to the business, contracts, expenditures, and income of the institution.

He shall keep a journal, ledger, and cash book, in which the accounts of the institution shall be fully and fairly entered, according to the usual mode of book-keeping, and post up the accounts at the end of each week.

Books open to inspection.

§ 6. The books of the clerk shall be, at all times, open to the inspection of the legislature, or any of its committees or members, and to a like inspection of the commissioners of the sinking fund, or any of its members, and of the board of visitors, or any of its members, and of the governor.

ARTICLE III.

Concerning convicts.

Removing convicts.

§ 1. Every person sentenced to confinement in the penitentiary of this commonwealth, shall, as soon as practicable after the conviction, be removed by the proper officer, at the public expense, to the jail and penitentiary house, and be kept therein during the period for which he is sentenced.

House, cells, &c.

§ 2. The penitentiary house and cells therein, as now erected, and as may be hereafter enlarged or altered, shall be appropriated to the purpose of confining such persons as have or shall be sentenced to confinement therein. But the males and females shall be kept separate and apart from each other.

Character of convicts.

§ 3. That the character of convicts may be known, it shall be the duty of the court in which each conviction takes place to make out and transmit to the keeper a short account of the circumstances attending the crime committed by such convict calculated to aggravate or extenuate the same—the character of the convict as proved on the trial, whether he had previously been convicted of or prosecuted of a felony, and what had been his general moral character.

Contagious disorders.

§ 4. To prevent the introduction of contagious disorders into the penitentiary, every person who is sentenced to hard labor therein shall be washed, cleansed, and lodged and kept separately until it shall be certified by a physician that he is fit to be received among the other prisoners.

§ 5. Convicts shall, during their confinement, be clothed in coarse materials, uniform in make and color, so as to distinguish them from other citizens.

1852.
Clothing, food,
labor, &c.

1. They shall be well fed, on plain, coarse and healthy diet.

2. So far as their age, health, and sex will allow, they shall be kept at hard labor as many hours each day, (except Sundays,) as the season will permit, allowing a half hour's rest for each meal.

3. But not exceeding eight hours in November, December, and January; nine hours in February and October, and ten hours the residue of the year.

4. The heads of convicts may be shaved at the discretion of the keeper.

5. Convicts shall be confined in solitary cells on Sundays, except at intervals of divine service, instruction, and meals.

§ 6. No person, except the keeper and his deputies and servants, the governor and members of the general assembly, shall, without the permission of the keeper, enter the walls of the penitentiary.

Who admitted.

1. The doors of the lodging rooms and cells shall be locked and all light therein extinguished at nine o'clock every night.

Cells locked,
&c.

2. One or more watchmen, if necessary, shall patrol the jail each night at least once in every hour from dark until the period of commencing labor in the morning.

Watchman.

§ 7. No person, except the governor or a visitor, shall converse with or mix among the convicts, except in the immediate presence of the keeper or an assistant, and with his consent. It shall be the duty of the keeper to prohibit any two or more of the convicts from conversing, sleeping, or in any manner associating together, except so far as the nature of their employments may require it.

Conversing
prohibited.

§ 8. On the trial of a convict confined in the penitentiary for a crime committed during the time for which he is convicted, the other convicts, (except such as have been convicted of perjury,) shall be competent witnesses.

Trial of con-
victs.

§ 9. The keeper shall establish rules and regulations for the government of the convicts, with the approval of the visitors, not inconsistent with law. In case of disobedience of any convict in performing his duty, or in case of a violation of such rules, the keeper may inflict, at his discretion, not exceeding ten stripes on the offender, or confine him in a cell not exceeding forty-eight hours for each offense.

Keeper to es-
tablish rules.

§ 10. The infant children of a convict shall, for and during the time of confinement, be regarded as orphans, and may have guardians appointed by the county court, and may be bound apprentices; and the whole proceedings, both with regard to them and their estate, shall be such as

Convict's chil-
dren.

1852.	is directed by the act concerning guardians, and masters and apprentices.
Will.	1. A convict may dispose of his estate by last will and testament.
Estate reverts.	2. On his discharge from confinement, so much of his estate as has not been legally disposed of shall revert to him.
Fine not computed.	3. The period of his confinement in the penitentiary shall not be computed against a convict under any statute of limitation.
Furnished at discharge.	4. When a convict is discharged from the penitentiary, the keeper shall furnish him with five dollars in money and comfortable clothing.
Office vacated by conviction.	§ 11. When any person sentenced to confinement in the penitentiary by a court of the state or of the United States, shall, at the time of such sentence, hold an office under this commonwealth, such office shall be vacated from the time of his sentence.

ARTICLE IV.

Concerning the health of convicts.

Cleaning, &c.	§ 1. The walls of the cells and apartments of the penitentiary house shall be whitewashed with lime and water twice every year. The floors of the cells shall be washed once every week, or oftener if necessary.
Infirmary, physician, &c.	§ 2. An infirmary shall be kept fitted up in the penitentiary, and when a convict is sick, on the recommendation of the physician employed for the institution, he shall be removed to such infirmary, and his name entered on a book to be kept for that purpose.
	1. The keeper shall employ a physician to attend on the convicts.
	2. When such physician shall report to the keeper that the convict is in a proper condition to quit the infirmary, and to return to his or her employment, the report shall be entered in the book, and the convict shall be again put to labor.
Exercise.	3. Convicts may, at stated times, be permitted to work or to walk for their health in the yard of the penitentiary, but in either case in the presence or view of the keeper or his assistant.

ARTICLE V.

Concerning guards and assistant keepers.

Guards appointed.	§ 1. The keeper shall employ not less than four suitable persons as guards, for the safekeeping of the prisoners, and at least two suitable persons as assistant keepers.
	1. Appointments under this section must be approved by the governor.
	2. Before an assistant keeper or guard enters on the duties of his station, he must take an oath that he will faithfully and honestly discharge the duties thereof.

ARTICLE VI.

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Concerning the instruction of convicts.

§ 1. The keeper of the penitentiary shall procure one sermon to be preached to the convicts, by a minister of the gospel, each Sunday.

Divine service,
instruction, &c.

1. He shall, moreover, cause the convicts who have not learned reading, writing, and arithmetic, to be taught at least four hours every Sunday.

2. The whole expense of such sermons and teaching shall not cost more than two hundred and fifty dollars per annum.

3. The books belonging to the library in the penitentiary shall be given out to convicts and returned every week, so that they may be well taken care of.

ARTICLE VII.

Visitors, and their duties.

§ 1. The clerk of the court of appeals, treasurer, and register of the state, shall be a board of visitors for the penitentiary.

Visitors, their
duties.

1. They, or one of them, shall visit said institution at least once per month, and ascertain the health of the convicts, the manner of dieting them, the cleanliness of the cells, and the manner in which the convicts are treated; and

2. They shall, biennially, report to the general assembly concerning all these subjects, and, from time to time, report to the governor any misconduct on the part of the keeper.

ARTICLE VIII.

Contracts.

§ 1. It shall not be lawful for the keeper to purchase raw material, stock, or provisions, or any other article for the institution, on a credit, without the written consent of the governor, filed with the clerk.

Contracts.

1. All contracts made with the keeper of the penitentiary, or any of its officers, for and on behalf of the institution, whether for the payment of money or property to or by the institution, shall be payable at the office thereof.

2. When anything is owing the institution, a demand may be made at another place.

§ 2. The keeper of the penitentiary shall be bound to furnish capital to carry on the same, but the state shall loan him, in materials and manufactured articles on hand and money, ten thousand dollars, upon which he shall annually pay the interest to the commissioners of the sinking fund, until he returns the capital so furnished.

Capital.

§ 3. The state shall have two-thirds of the net profits of the institution, and the keeper the other third; but the

Profits.

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keeper shall guarantee an annual profit of five thousand dollars, clear of all expenses, interest, and losses.

Repairs.

§ 4. The keeper shall keep in good repair the penitentiary, together with all buildings appurtenant thereto; also, all engines, machinery, tools, and utensils used therein, at the cost of the institution, and deliver them up in such repair at the end of his time, and for any default herein he shall be chargeable in the final settlement of his accounts.

ARTICLE IX.

Miscellaneous provisions.

U. S. convicts.

§ 1. Persons convicted in this state under the laws of the United States, may, when sentenced thereto, be confined in the penitentiary of this commonwealth, and the keeper thereof is required to receive and receipt for such convict; and when so received, he shall be subject to the same rules and regulations as state convicts.

1. But such convicts shall be received on the terms and conditions proposed by the joint resolutions of the congress of the United States, approved 23d September, 1789.

2. The keeper of the penitentiary may demand and receive from the proper authorities of the United States compensation, semi-annually, for keeping and supporting such prisoner.

Slaves.

§ 2. Slaves received into the penitentiary by the keeper must, at all times, be kept separate and apart from the convicts, and be kept confined in the cells at night.

Penalty for
aiding escape.

§ 3. Any person who shall convey or cause to be conveyed into the penitentiary any instrument, tool, weapon, or other thing adapted to or useful to aid any convict in making his escape therefrom, with intent to facilitate such escape, and any person who, by any means, aids any convict in his endeavor to escape, whether such escape be effected, or attempted, or not, and any person who shall forcibly or fraudulently rescue or attempt to rescue any convict held in custody under a conviction to imprisonment in the penitentiary, shall be punished by imprisonment therein not less than one nor more than ten years, and shall be fined the sum of five hundred dollars.

Keeper, &c.,
permitting es-
cape.

§ 4. If the keeper, or any officer or other person in the penitentiary shall voluntarily suffer a convict confined therein to escape, or in any way consents to or aids in such escape, he shall be punished by imprisonment in the penitentiary for not less than one nor more than ten years.

Liquors.

§ 5. No spirituous liquors shall be used or drank in the penitentiary under any pretext, except only such as may be prescribed by a physician.

Tobacco.

§ 6. Tobacco may be furnished to convicts in such quantities as the keeper may deem proper.

CHAPTER XXV.

ELECTIONS.

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ARTICLE I.

General provisions.

§ 1. Whenever in this chapter, or in any statute hereafter passed, it is said an election shall be held, or an equivalent expression is used in reference to a state, district, or county election, it shall be deemed to mean an election by the qualified voters, to be held at the places of voting in the various precincts or justices' districts whose voters have a right to vote in the election of the officers designated.

Term election defined.

§ 2. Whenever a duty is imposed upon or a power confided to a "sheriff" in reference to an election, the same shall apply to any other officer or person acting for him at an election, and to the deputies of the sheriff, such other officer or person, in the same manner as if the duty were imposed upon or the power confided expressly to such other officer, person, or deputies; except that, in comparing returns or giving the casting vote in the election of a county judge to fill a vacancy, no deputy shall act without the express written authority of the principal.

By sheriff, other officers implied.

§ 3. "Officer of an election," as used in this chapter, means a judge, clerk, or sheriff, or person acting for a sheriff at an election; also, a member of a board for examining poll-books or returns, or making returns.

Officer of an election

ARTICLE II.

Precincts, &c.

§ 1. The election precincts and places of voting in the several counties in this state, shall be the same as the districts and places fixed by law for the election of justices of the peace, unless otherwise specially provided for by law.

Precincts.

§ 2. That elections in the city of Louisville, except those for justices of the peace and constables, shall be held in each ward thereof, the place of voting to be designated by the mayor and council thereof.

City of Louisville.

§ 3. Districts for the election of justices of the peace and constables, election precincts, and places of voting, may be changed by the county court in the month of January or February next preceding the regular time of electing justices of the peace, on the petition of a majority of the voters of each district or precinct to be affected by the change; and when any such change is so made, the sheriff shall cause the same to be advertised at the places of voting in each precinct affected by the change, for two weeks preceding the next election. If, for any good cause, an election cannot be held at the house appointed as the place of voting, the judges of the election may, on the morning of the election, adjourn it to the most convenient place, after having publicly proclaimed the change.

Districts, when and how changed.

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Justices and
constables.

§ 4. An election for two justices of the peace shall be held in each magistrate's district on the first Saturday in May, 1855, and on the same day every fourth year thereafter; and for a constable on the first Saturday in May, 1853, and on the same day in every second year thereafter.

Terms of office.

§ 5. The term of office of justices of the peace and constables shall always commence on the first day of June, in the year of their election, and expire when their successors are qualified. The justices of the peace shall enter on the duties of their respective offices as soon after their terms commence as they shall have received their commissions and qualified thereunder, and shall have filed the same, with the certificate of qualification thereon, in the county court clerk's office.

ARTICLE III.

*Elections, how held.*Officers of
election ap-
pointed.

§ 1. Each county court shall, in the month of June or July in every year, appoint two justices of the peace, if so many there be, or one justice and one other suitable person as judges, and a clerk of the election, for each precinct in the county. It shall also, in the month of March or April every second year, appoint two suitable persons as judges, and a clerk of the election, for each district for the election of justices of the peace and constables in the county. Such judges and clerks shall hold their offices till their successors are appointed and qualify. Vacancies may be filled at any time by the court, or as herein provided for; but such counties as do not appoint at their March court, and have no county court in April, may hold a called term to appoint officers for the May elections.

Notice.

§ 1. The sheriff shall, at least five days before the next ensuing election, give each judge and clerk written notice of his appointment.

Failure to ap-
point.

§ 3. Should the court fail to appoint such judges or clerk, or either fail to attend for thirty minutes after the time for commencing the election, or refuse to act, the sheriff or his deputy shall appoint a suitable person or persons to act in his or their stead for that election.

Oath.

§ 4. Each judge and clerk of an election shall, before entering on the duties of his office, take the oath prescribed by the constitution before some justice of the peace; or it may be administered by the sheriff.

Duties of judge

§ 5. Such judges shall superintend the election, determine upon the legality of all the votes offered, see that they are properly recorded with the voter's name, in the poll book kept for that purpose, attend to the proper summing up of the votes, certify the poll book over their signatures, and deliver the same, enclosed in an envelope, sealed by them, before they separate, to the sheriff. They shall also make out duplicate statements, in writing, signed by them,

of the number of votes received by each candidate, one copy of which shall be retained by each of the judges, and shall serve as evidence of the result of the election, if the poll-book is not produced. When the judges disagree, the sheriff shall act as umpire between them.

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Sheriff umpire.

Each clerk, in the presence of the judges, shall sign his name at the foot of every page of the poll-book, as the election progresses, so that the same may be thereby identified.

Clerk sign poll book.

§ 6. If the office of sheriff is vacant, or if the sheriff is himself a candidate at any election, all his duties pertaining to that election shall be performed by the coroner and such deputies as he may appoint for that purpose; if the coroner is absent, or his office vacant, or he is a candidate, then such duties of the sheriff shall be performed by some person appointed for that purpose by the presiding judge of the county court, and the deputies of such person, if the presiding judge is not himself a candidate. But if the presiding judge is himself a candidate, or if, from any cause, a sheriff is not in attendance, the judges of the election at any precinct, or, if one of them is absent, the other judge may appoint a person to act in the place of the sheriff for the election on that day in that precinct. In case of disagreement between the judges, the clerk may appoint such person.

When office of sheriff vacant.

§ 7. If a person offering to vote is not personally known to one of the judges or the sheriff as a qualified voter, he shall be interrogated, under oath administered by one of the judges, or the clerk, as to his qualification. If, from his statement so made, he appears to be qualified, he shall be admitted to vote, unless his right is disputed by one of the judges or the sheriff, or by some other person present. If so disputed, the judges shall hear witnesses, not exceeding two in number on each side, as to his qualifications, and decide as may appear right from the proof and the statements of the party. The word "sworn" shall be written opposite the name of every one so voting.

When voter not personally known.

Nothing in this section shall be construed to exempt a foreigner from producing his certificate of naturalization, unless his qualification is known to one of the judges or the sheriff.

Foreigner.

§ 8. The following rules shall be observed in determining the residence of a person offering to vote.

Rules as to residence.

1. That shall be deemed his residence where his habitation is, and to which, when absent, he has the intention of returning.

2. He shall not lose his residence by absence for temporary purposes merely; nor shall he obtain a residence by being in a county or precinct for such temporary purposes, without the intention of making the county or precinct his home.

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3. By removal to another state or county, with intention to make his permanent residence there, he loses his former residence.

4. So, also, he loses his residence here by removal to and residence in another state, with intention to reside there an indefinite time, or by voting there, even though he may have had the intention to return here at some future period.

5. The place where the family of a married man resides, shall, generally, be considered his residence, unless the family so resides for a temporary purpose. If his family is permanently in one place, and he transacts his business in another, the former shall be his residence.

Questions as to
citizenship.

§ 9. If a person is objected to as not being a citizen, in addition to any questions the judges may think proper to ask, the following shall be put to him.

1. Have you resided in this state two years, or in this county one year immediately preceding this election? and have you resided in this precinct sixty days next preceding this election?

2. Have you been absent from this state during the two years immediately preceding this election, and, if so, did you, while absent, consider this state as your home, or did you, while absent, vote in another state?

Questions as to
residence.

§ 10. If the person is objected to as not a resident of the county or precinct in which he offers to vote, then, in like manner, the following questions shall be put to him.

1. When did you last come into this county (or precinct)?

2. When you came into this county (or precinct,) did you come for a temporary purpose merely, or for the purpose of making it your home?

3. Did you come into this county (or precinct) for the purpose of voting in it.

ARTICLE IV.

Time of holding elections.

Presidential
election.

§ 1. The election of electors of president and vice president shall be held on the Tuesday next after the first Monday in November, one thousand eight hundred and fifty two, and on the same day in every fourth year thereafter. But the governor may, by his proclamation, appoint the same day in any other year, pursuant to the act of Congress, for holding the election in the event of a vacancy in the offices of president and vice president.

Representa-
tives in con-
gress.

§ 2. The election of representatives in congress shall be held on the first Monday in August, one thousand eight hundred and fifty-one, and on the same day in every second year thereafter; but should there be a called session of congress between the expiration of any congressional term and the ensuing first Monday in August, the Governor may, by his proclamation, published in three newspapers

printed in this state, cause an election of representatives in congress to be held at an earlier day, if there is thirty days between the date of publication and the day so assigned by him.

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§ 3. The election of all other officers, not otherwise provided for, shall be held on the first Monday in August; and thereafter, on the same day of each year, as the terms of office regularly expire.

Other officers.

§ 4. The chancellor, clerk, and marshal of the Louisville chancery court shall be elected by the qualified voters within its jurisdiction, on the first Monday in August of the year in which the term of office regularly expires.

Chancellor, &c.,
of Louisville
chancery court.

ARTICLE V.

Comparing polls.

§ 1. The presiding judge of the county court, the clerk thereof, and the sheriff, or other officer acting for him at an election, shall constitute a board for examining the poll books of each county, and giving certificates of election. Any two of them may constitute a board; but, if either is a candidate, he shall have no voice in the decision of his own case. If, from any cause, two of the before named persons cannot, in whole or in part, act in comparing the polls, their places shall be supplied by the two justices of the peace who may reside nearest to the court house.

Board to examine
poll-books.

§ 2. Within two days next after an election, the sheriff shall deposit with the clerk of the county court the poll-books of the different precincts. On the next day, the board shall meet in the clerk's office, between ten and twelve o'clock in the morning, compare the polls, ascertain the correctness of the summing up of the votes, and give triplicate or more written certificates of election, over their signatures, of those who have received the highest number of votes for any office exclusively within the gift of the voters of the county—one copy of the certificate to be retained in the clerk's office, another delivered to each of the persons elected, and the other forwarded by the county clerk to the secretary of state at Frankfort. For offices not within such gift, they shall give duplicate or more written certificates, over their signatures, of the number of votes given in the county to each person voted for, particularizing therein the precinct at which the votes were given—one copy to be retained in the clerk's office, and the other delivered to the sheriff.

Comparing
poll-books, cer-
tificates.

The poll-books shall, thereafter, remain in the clerk's office as part of its records. So, also, shall the certificates of any precinct judges, which may have been used in the absence of the poll-book of that precinct.

Poll-books to
remain in office.

§ 3. Where two or more counties vote together in the choice of a representative or senator, the sheriffs of the respective counties shall, between ten and twelve o'clock

Two counties
voting together.

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in the morning of the first Monday after the election, meet in the clerk's office of the county court of the county first named in the senatorial or representative district, compare the certificates of the examining boards of the several counties, and, therefrom, give triplicate or more certificates of election, in writing, over their signatures, of the persons who appear to have received the highest number of votes—one copy of the certificate to be retained in the clerk's office, another delivered to the person elected, and the other forwarded to the secretary of state at Frankfort.

Form of certificate.

§ 4. The certificate of election of a county officer shall be, in substance, in the following form :

COMMONWEALTH OF KENTUCKY, SCT.

We, A., B., and C., duly authorized to compare the poll-books for the county of _____, do certify that, at an election held in said county on the _____ day of _____, E. F. was duly elected to fill the office of _____.

The certificate of election of a justice of the peace or constable shall be altered to show that the election was held in a named district.

Election of governor, &c.

§ 5. After an election for governor, lieutenant governor, or other officer elective by the votes of the whole state, or for a judge of the court of appeals, clerk of that court, circuit judge, commonwealth's attorney, representative in congress, or electors of president and vice president, it shall be the duty of the board of examiners of poll-books for each county, immediately after the examination of the poll-books, to make out three or more certificates in writing, over their signatures, of the number of votes given in the county for each of the candidates for any of said offices. One of the certificates shall be retained in the clerk's office, another the clerk shall send by the next mail, under cover, to the secretary of state at Frankfort, and the other he shall transmit to the secretary by any private conveyance the clerk may select, free of cost.

Board to examine returns.

§ 6. The governor, attorney general, and secretary of state, and, in the absence of either, the auditor, or any two of them, shall be a board for examining the returns of election for any of the officers named in the last section.

Duties.

1. It shall be the duty of said board, when the returns are all in, or on the fourth Monday after the election, whether they are in or not, to make out in the secretary's office, from the returns made, duplicate certificates, in writing, over their signatures, of the election of those having the highest number of votes—one certificate to be retained in the office, and the other sent by mail to the person elected. If all the returns are not made, the right to contest an election shall not be impaired.

Representatives in Congress, certificates.

2. In the case of the election of a representative in congress there shall be three certificates—one to be retained in the office, another sent by mail to the person elected,

and the other sent by mail to the clerk of the house of representatives, at the seat of the federal government.

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3. It shall be the duty of the secretary, immediately after the comparison of the returns, to cause a statement, therefrom, of the votes given in every county for each candidate, to be published in two newspapers printed in Frankfort.

Statement to be published.

4. If two or more persons shall be found to have received the highest and an equal number of votes for the same office, so that the election cannot be determined among the candidates by a plurality of votes, it shall be determined by lot, in such manner as the board may direct, and in the presence of not less than three other persons.

Tie, how determined.

5. If one or more of the persons voted for as electors of president, is elected, then he or they, when convened to vote for president, shall determine which of the candidates having an equal number of votes shall be deemed to be elected, without casting any lot therefor. But if none is elected, then the board shall determine the election by lot, between those having the highest and equal number of votes; except that they shall be arranged and drawn for in classes, according to their known pledges to vote for the different candidates, so that the whole vote of the state may be given to the same persons.

§ 7. Where the sheriffs of two or more counties, on comparison of the returns, or the board of examiners for a county, find that two or more persons have received the highest and an equal number of votes for the same office, they shall, in like manner, by lot, determine which of the candidates is elected.

Tie in county elections.

ARTICLE VI.

Filling vacancy.

§ 1. The term "vacancy in office," or any equivalent phrase, as used in this article, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law. It applies whether the vacancy is occasioned by death, resignation, removal from the state, county, or district, or otherwise.

Term vacancy, &c.

§ 2. A writ of election shall be signed by the officer or attested by the clerk of the court issuing the same; appoint the day for holding the election, and be directed to the proper sheriff or sheriffs.

Writ of election.

1. When an election is to be held to fill a vacancy in any office by the voters of the whole state, or of a congressional or judicial district, a proclamation, signed by the officer authorized to order the same, shall be used and stand in lieu of a writ of election.

Proclamation.

1852.

How published.

2. Such proclamation, when for the whole state, shall be published, at least thirty days before the election, in two newspapers printed at the seat of government; and when for such district, at least twenty days before the election, in two newspapers printed in the district—if there are such papers printed at the seat of government or in the district. A copy of a proclamation for a district election shall, also, be forwarded by mail to the sheriff of each county in the district, twenty days before the election.

Sheriff to give notice.

3. Immediately on receipt of a writ of election or proclamation of election, or other sufficient information thereof, the sheriff shall give notice thereof by advertisements, posted at the court house door and the several places of voting, and published in some newspaper printed in the county, if any such there be.

4. No writ for the election of a county officer, a representative, or senator, shall be issued, except so as to enable the sheriff to give such notice at least eight days before the election.

Writ delivered to sheriff.

5. A writ of election from the county court shall be delivered to the sheriff by the clerk thereof, immediately after it is ordered. Other writs of election or proclamations shall be forwarded by the officer issuing them to the sheriff by mail. If, from any cause, the sheriff cannot properly act, he shall, immediately, hand the writ or proclamation to the person authorized to act in his place.

What day to be appointed.

6. The next succeeding first Monday in August shall always be the day appointed by writ or proclamation for holding an election, except as in this chapter allowed, unless to fill a vacancy in the court of appeals, or in the office of circuit judge, or unless there is or will be an intervening session of the legislature or of congress, rendering it necessary to fill a vacancy therein before the first Monday in August.

7. But when a vacancy so occurs that there is not time to give the requisite notice before the proper first Monday in August, a special election shall be ordered to take place on a day within six weeks after such first Monday.

8. Except in the cases provided for in the last subsection, the day appointed for filling a vacancy in the court of appeals, or in a circuit court, shall be within six weeks after the governor receives notice of the vacancy.

Vacancy in legislature.

§ 3. When a vacancy happens in either branch of the legislature during its session, the presiding officer of the house in which the vacancy occurs shall issue the writ of election; if the legislature is not in session, the writ shall be issued by the governor.

In office of governor.

§ 4. When a vacancy happens in the office of governor, requiring an election, the proclamation therefor shall be issued by the chief justice, or, if he is absent from the state,

by the judge of the court of appeals having the shortest unexpired term.

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§ 5. A vacancy in the office of sheriff shall be temporarily filled by the county court, until the next succeeding August election, and until the successor then chosen shall qualify.

Sheriff.

1. A vacancy in the office of coroner, surveyor, county court clerk, county attorney, jailer, constable, or assessor, shall be filled in like manner, until the next succeeding August election, and until the successor then chosen has qualified. A writ of election to fill the vacancy shall be issued by the court, or, if the judge is not at the time in the county, by the clerk under the order of two justices of the peace.

Coroner, surveyor, etc.

2. A vacancy in the office of justice of the peace shall be filled by the appointment of the governor, temporarily, until the next succeeding May or August election, whichever shall first transpire, and until the successor then chosen shall qualify; and a writ of election to fill the remaining vacancy shall be issued in like manner.

Justice of the peace.

3. A vacancy in the office of commonwealth's attorney or circuit court clerk shall, in like manner, be temporarily filled for the same time by the circuit judge of the district, who shall, also, issue the writ or proclamation for an election to fill the remaining vacancy.

Commonwealth's attorney, or clerk.

§ 6. When a vacancy shall occur in the office of any presiding judge of a county court within the first three years for which he may have been elected to said office, it shall be the duty of the clerk of the county court, or, in his absence, the clerk of the circuit court, to issue a writ of election, directed to the sheriff, who shall proceed to hold an election—after having given due notice; but if the vacancy shall be for a less period than one year, then the clerk of the county or circuit court shall notify all the magistrates of the county that a vacancy has occurred, and requiring the said justices to convene at the court house to fill said vacancy, on a named day.

Presiding judge.

1. The justices shall convene at ten o'clock in the morning of the appointed day, or as soon thereafter as may be, and at the same hour every succeeding day, Sunday excepted, until the vacancy is filled.

2. A majority of the justices shall be a quorum to fill the vacancy, and their written certificate thereof shall be handed to and preserved by the clerk of the court.

3. In case of a tie, or if a majority of the justices present cannot be otherwise obtained, after three ballots, the sheriff shall give the casting vote.

§ 7. All resignations of office shall be tendered to the court or officer who is required to fill the vacancy. All such resignations shall be in writing, and received and recorded by said court or officer; when it is required to be

Resignations.

1852.

filled by the circuit judge, he shall cause a record to be made of the resignation, in the court of that county in which the officer lives; and when by the county court, it shall cause a record of the fact to be made; and when by the governor, he shall cause the same to be recorded in the executive journal.

ARTICLE VII.

*Contested election.*Election of
governor, &c.

§ 1. When the election of a governor or lieutenant governor is contested, a board for determining the contest shall be formed in the following manner:

Board, how
constituted.

1. On the third day after the organization of the general assembly which meets next after the election, the senate shall select, by lot, three of its members, and the house of representatives shall select, by lot, eight of its members, and the eleven so selected shall constitute a board—seven of whom shall have power to act.

Selection by lot.

2. In making the selection by lot, the name of each member present shall be written on a separate piece of paper, every such piece being as nearly similar to the other as may be. Each piece shall be rolled up, so that the name thereon cannot be seen, nor any particular piece ascertained or selected by feeling. The whole, so prepared, shall be placed by the clerk in a box on his table; and, after it has been well shaken, and the papers therein well intermixed, the clerk shall draw out one paper, which shall be opened and read aloud by the presiding officer; and so on; until the required number is obtained. The persons whose names are so drawn, shall be members of the board.

To be sworn.

3. The members of the board so chosen by the two houses, shall be sworn by the speaker of the house of representatives to try the contested election, and give true judgment thereon, according to the evidence, unless dissolved before rendering judgment.

Meeting of
board, &c.

4. The board shall, within twenty-four hours after its selection, meet, appoint its chairman, and assign a day for hearing the contest, and adjourn from day to day, as its business may require.

Members ex-
cused.

5. If any person, so selected, shall swear that he cannot, without great personal inconvenience, serve on the board, or that he feels an undue bias for or against either of the parties, he may be excused by the house from serving on the board; and if it appears that a person, so selected, is related to either party, or is liable to any other proper objection on the score of his impartiality, he shall be so excused.

Deficiency sup-
plied.

6. Any deficiency in the proper number, so created, shall be supplied by another draw from the box.

Power of board.

7. The board shall have power to send for persons, papers, and records, to issue attachments therefor, signed by

its chairman, swear witnesses by its chairman or clerk, and issue commissions for taking proof.

8. Where it shall appear that the candidates receiving the highest number of votes given have received an equal number, the right to the office shall be determined by lot, under the direction of the board. Where the person returned is found not to have been legally qualified to receive the office at the time of his election, a new election shall be ordered. Where another than the person returned shall be found to have received the highest number of legal votes given, such other shall be adjudged to be the person elected and entitled to the office.

9. No decision shall be made but by the vote of six members. Its decision, when made, shall be final and conclusive. It shall be made out in triplicate and signed by the members voting therefor. One copy shall be retained by the chairman or clerk, and one delivered to the presiding officer of each house.

10. If a new election is required, it shall be immediately ordered, by the proclamation of the speaker of the house of representatives, to take place within six weeks thereafter, and on a day not sooner than thirty days thereafter.

11. When a new election is ordered, or the incumbent adjudged not to be entitled, his powers shall immediately cease; and if the office is not adjudged to another, it shall be deemed to be vacant.

12. If any member of the board willfully fail to attend its sessions, he shall be reported to the house to which he belongs, and, thereupon, such house shall, in its discretion, punish him by fine or imprisonment.

13. If no decision of the board is given, during the then session of the legislature, it shall be dissolved, unless, by joint resolution of the two houses, it is empowered to continue longer.

§ 2. When the election of a member of the general assembly is contested, that branch of the legislature to which he belongs, within three days after its organization, shall, in like manner, select a board of not more than nine nor less than five of its members, for determining the contest; which board shall be governed by the same rules, have the same power, and be subject to the same penalties as would the board to determine the contested election of governor, and shall report its decision to that branch of the legislature by which it was appointed, for its further action.

§ 3. The governor, attorney general, auditor, treasurer, and secretary of state, or any three of them, shall be a board, with like powers as those named in the last section, for determining the contested election of any officer, other than governor or lieutenant governor, elective by the voters of the whole state, or of a judge or clerk of the court

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Decision.

Vote of six
members necessary.

New election.

Member refusing to attend.

When no decision during session.

Election to general assembly—board, how constituted.

Other officers who compose board.

1852:	of appeals, circuit judge, chancellor of the Louisville chancery court, or commonwealth's attorney.
To be sworn.	1. Each member of the board, before entering on his duties as such, shall be sworn by some judge or justice to try the contested election, and give true judgment thereon, according to the evidence.
Rules.	2. The board and its acts shall be governed by the rules named in the first section of this article, where the same are applicable to its duties.
Majority necessary to a decision.	3. A majority of the board shall be necessary to a decision, which shall be in writing, and signed in duplicate by the members concurring therein—one copy to be retained in the secretary's office, and the other delivered to the successful party, or sent to him by mail.
Commission, or new election.	4. The governor shall, immediately after such decision, issue the proper commission, or order a new election, as the case may require.
County and district officers.	§ 4. The judge of the county court and the two justices of the peace residing nearest to the court house in each county, shall be a board, with like powers as those named in the last section, for determining the contested election of any officer elective by the voters of the county or any justices' district therein, or of any police judge, clerk, or marshal, except members of the general assembly. If any of said persons are absent from the county or cannot properly act, then said board shall be filled by adding thereto—first, the county court clerk, then the justice of the peace who resides next nearest to the court house, and so on, excluding such as cannot properly act, till the board is full. If either party shall make affidavit, and file the same with a county board, that such party verily believes that either or both of said justices will not give a fair and impartial trial, then the board shall be filled by other justices in lieu of those thus objected to.
Rules.	1. The board shall be governed by the rules named in the first and third sections, where the same are applicable to its duties.
Decision.	2. The decision of the board shall be given in writing and signed in triplicate, one copy to be entered on the minutes of the court, another handed to the successful party, and the other, when necessary for obtaining a commission, forwarded by mail to the secretary of state.
New election.	3. When the decision so requires, the court shall immediately issue a writ for a new election.
Notice.	§ 5. No application to contest the election of an officer shall be heard, unless notice thereof, in writing, signed by the party contesting, is given to the officer returned.
Must state grounds.	1. The notice shall state the grounds of the contest, and none other shall afterwards be heard, as coming from such party.
	2. In the case of an officer elective by the voters of the

whole state or any judicial district, the notice must be given within thirty days after the final action of the board of examiners. In the case of a senator or representative, it must be given within fifteen days; and in that of any other office, within ten days after such action.

3. Immediately after such notice, either party may proceed to take proof by depositions, under the same rules and regulations that govern the taking of depositions in suits in chancery, except that no dedimus shall be required for taking a deposition out of the state. The depositions shall be sealed up by the officer taking them, and directed to the board having power to decide the contest, or to the clerk of the senate, or clerk of the house of representatives, as the case may require.

4. Such depositions, properly taken, shall be read as evidence before that branch of the legislature or the board having jurisdiction of the case; but either can, in its discretion, call for and hear other proof.

5. The taking of depositions to be used before the legislature, or either branch thereof, shall close ten days before the next meeting thereof, or, if in session when the notice is given, not until it is ordered to close; if before a county board, it shall close three weeks after the notice of the contest; and if before the other board, six weeks after the notice.

6. The case shall be heard by a county board on the fourth Monday after the service of notice; and by the other board, the eighth Monday after such service; but either may, for good cause, allow further time.

7. The costs of the proceeding shall be adjudged against the unsuccessful party, and a certificate thereof given by the board, or by the clerk of either branch of the legislature, as the case may require. A judgment for the same may be obtained after five days' notice, in a circuit or county court.

ARTICLE VIII.

Pay of officers of elections, &c.

§ 1. The costs of all elections held in any county shall be paid out of the county levy.

§ 2. Officers of elections shall receive pay as follows: judges, one dollar, each; sheriffs, one dollar, each; clerks, two dollars, each; in all elections to fill vacancies, the same fees, except that the clerk shall only receive one dollar. For comparing the returns of two or more counties in the election of a senator or representative, a sheriff shall receive two dollars, and one dollar and fifty cents for each twenty-five miles of travel in going and returning.

§ 3. The compensation to witnesses, and officers taking depositions, in cases of contested elections, shall be the same as in suits at law.

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Time.

Depositions.

Other proof.

When taking of depositions to close.

When case to be heard.

Costs.

Cost of elections.

Pay of officers.

Of witnesses.

1852.

Of clerk.

§ 4. The clerk of the county court shall have twenty-five cents for each certificate of election or appointment of an officer, to be paid by the person receiving it.

ARTICLE IX.

Election of United States Senator.

U. S. Senator. § 1. Senators in the congress of the United States shall be elected by *viva voce* vote of the members of the two branches of the general assembly, on joint ballot.

When elected. 1. The election shall be held on the eighth day after the organization of the general assembly which next precedes the expiration of the senatorial term of the incumbent; and if no election is made on that day, the two houses may adjourn from time to time until the election is made.

Vacancy. 2. If a vacancy occurs when the legislature is not in session, in an unexpired term, the election shall be held on the eighth day after the organization of the next general assembly; and if during the session of the legislature, or if notice thereof is only received during such session, the election shall be held on the seventh day next after any member of either house moves to go into an election; or, if that seventh day is Sunday, then on the next succeeding day. In either case the election shall be proceeded with as before directed.

Governor to give certificate. § 2. When the governor is notified by the clerk of either house of the election of a senator, or when the governor appoints a senator, he shall give a written certificate of such election or appointment, attested by his signature and the seal of the state. If he refuses to give such certificate after an election, the presiding officer and clerk of either house may give the same over their signatures.

ARTICLE X.

Electors of President.

When to convene. § 1. The electors of president and vice president of the United States shall convene in the capitol, at the seat of government, at ten o'clock in the morning of the first Wednesday in December after their election, give their votes at or after twelve o'clock, and make return thereof according to law.

Places of absences filled. § 2. If, from any cause, one or more of the electors elected fails to attend, as before directed, by twelve o'clock of that day, those in attendance shall fill the place of those absent, by the election of another person or persons, who shall have the same powers as if originally elected by the people for that purpose.

ARTICLE XI.

When officers to commence their duties.

Commissioners. § 1. The governor shall commission all officers elective by the voters of the whole state, other than governor and

lieutenant governor, or of any judicial district, and also the chancellor of the Louisville chancery court.

No officer elective by the voters of a single county shall be commissioned by the governor, except the presiding judge of the county court, a police judge, and justices of the peace.

§ 2. The term of office of every officer not otherwise provided for, shall hereafter commence on the first Monday of September next after his election, and expire when his successor is qualified. The officer elected shall enter on the duties of his office after the commencement of his term, as soon as he receives his commission or certificate of election, and qualifies thereunder, by taking the oath of office, and by giving his official bond, when required by law.

The presiding judge of a county court, and a justice of the peace, shall, before entering on his duties, also leave his commission with the clerk of the court, to be noted of record.

§ 3. Every officer appointed to fill a vacancy, shall commence the duties of the office as soon as he has received his commission, or certificate of appointment, and qualified thereunder according to law.

§ 4. Every officer not otherwise provided for by the constitution, shall hold his office until his successor has duly qualified.

ARTICLE XII.

Penalties against frauds on elections.

§ 1. Any sheriff who fails to cause an election to be held, or to make, compare, and certify election returns for senator or representative, as required by law, shall be fined from one hundred to five hundred dollars. If he fails to perform any other duty concerning an election, or the returns thereof, for which there is no penalty specifically prescribed, he shall be fined from twenty to two hundred dollars.

§ 2. Any judge or clerk of an election who, after due notice of his appointment, shall fail to perform his duty as such in holding any election, unless for good cause, shall be fined from ten to one hundred dollars.

§ 3. Any officer who, without sufficient excuse, fails to discharge his duty after any election, as one of a board for comparing the poll-books or election returns, or to decide a contested election, shall be fined from twenty to two hundred dollars.

Any officer who shall act corruptly, or with manifest partiality, in the discharge of such duty, shall be fined from one hundred to five hundred dollars, and shall, also, in addition, forfeit any office he then holds, and be disqualified from ever holding any office.

§ 4. Any officer or other person who shall fraudulently alter, obliterate, or willfully secrete, suppress, or destroy

1852.

When term of office begins.

Commissions to be noted of record.

Filling vacancies.

Until successor qualified.

Penalty on sheriffs failing to attend elections, &c.

On judge or clerk.

Failing in comparing polls &c.

Acting corruptly.

Altering, &c., poll-book.

1852.

the certified poll-book or certificate of an election, or fraudulently and unlawfully alter the poll-book before it is certified, shall be deemed guilty of forgery, be confined in the penitentiary from one to five years, forfeit any office he then holds, and be disqualified from ever holding any office.

Making false
poll-book, &c.

§ 5. Any officer who shall make or aid in making, or authorize the making up of any false and fraudulent poll-book or certificate of an election or election return, shall incur the penalties of the last section.

Refusing cer-
tificate, &c.

§ 6. Any officer whose duty it is to give or aid in giving a certificate of election or of the returns of an election, or to forward the same, who shall willfully and fraudulently refuse or fail to give the same, or to send the same to the secretary of state, as required by law, shall be imprisoned from one to six months, and fined not more than a thousand dollars, forfeit any office he may then hold, and be disqualified from ever holding any office.

Advising or
procuring.

§ 7. Any person who shall counsel, advise, or procure the commission, or aid in the commission of either of the offenses named in this article, shall incur thereby the penalty therefor, as therein named.

Wrongfully re-
ceiving or refus-
ing votes.

§ 8. Any judge, sheriff, or clerk who shall receive or assent to receive or record a vote at an election at any other time or place than that lawfully appointed, and any judge or sheriff who shall knowingly and unlawfully receive the vote of any other than a qualified voter, or so refuse to receive the vote of a qualified voter, shall, for every such offense, be imprisoned from one to six months, or fined from fifty to five hundred dollars, forfeit any office he then holds, and be disqualified from ever holding any office.

Voting under
age, &c.

§ 9. Any resident of this state who shall vote at any election before he has resided two years in the state, or in the county and precinct where the election is held, the time required by law, or before he has attained full age, or before he has been duly naturalized, shall be fined from fifty to one hundred dollars, or imprisoned from ten to ninety days, or both.

Voting more
than once, or by
false papers.

§ 10. Any resident of another state or country, or any person who shall vote more than once at an election; any person who shall vote by means of a false personation and use of the naturalization papers of another person, dead or living; and any person who shall lend or hire his naturalization papers to be used for such purpose, shall be imprisoned not less than one month, or more than one year.

Receiving
bribes.

§ 11. Any person guilty of receiving a bribe for his vote at an election, or for his services or influence in procuring a vote or votes at an election, shall be fined from fifty to one hundred dollars, or imprisoned from one to twelve months, and be excluded from office and suffrage.

Bribery, &c.,
defined.

1. "Bribe" or "bribery," means any reward, benefit, or advantage, present or future, to the party influenced or in-

tended to be influenced, or to another at his instance, or the promise of such reward, benefit, or advantage.

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2. Money or other thing of value given or lent, in whole or in part, to be betted on the result of an election, or the promise thereof; or a bet with another that such other will vote for a named candidate, and the gift or promise of a share in any such bet, made or to be made, shall be deemed a bribe.

3. Whoever shall receive money or other thing of value, to be used for the purpose of procuring or influencing a vote or votes, shall be deemed to have been bribed.

§ 12. Whoever shall bribe another shall, on conviction, be fined from fifty to one hundred dollars, and imprisoned from ten to ninety days, or both so fined and imprisoned, and be excluded from office and suffrage for five years.

Penalty for
bribing.

§ 13. Any person who, by himself or in aid of others, shall forcibly break up or prevent, or attempt to break up or prevent, the lawful holding of an election, or so obstruct or attempt to obstruct the same, or so prevent or attempt to prevent any qualified voter from giving his vote, shall be fined from fifty to five hundred dollars, or imprisoned not more than one year.

Forcibly break-
ing up elections,
&c.

§ 14. Any person who shall make any willfully false statement, under an oath duly administered at an election, shall be deemed guilty of perjury, and incur the penalty for that crime.

False swear-
ing.

Any person who shall willfully and corruptly procure another to make such false statement, shall be deemed guilty of subornation of perjury, and incur the like penalty.

§ 15. Any person condemned to confinement in the penitentiary for larceny, robbery, forgery, counterfeiting, or perjury, or any such like crime, shall forfeit his right of suffrage for ten years after his conviction.

Right of suf-
frage forfeited.

§ 16. It shall be the special duty of a sheriff, judge, or clerk of an election to give information of all infractions of this act to the grand jury or commonwealth's attorney; and where there is reason to fear that an offender will make his escape out of the country before indictment, to procure his immediate apprehension.

Duty of officers
to give informa-
tion, &c.

The officer before whom such offender is brought, if satisfied of his guilt, shall require from him surety, in adequate penalty, for his appearance at the next circuit court, to answer the charge; and on his failure to give it, commit him to prison till such surety is given.

§ 17. This chapter shall be liberally construed, so as to prevent any evasion of its prohibitions and penalties by shift or device.

Liberally con-
strued.

It shall also be given specially in charge to the grand jury of every county first convened after any general election.

§ 18. A grand jury may cause any person to be sum-

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Grand jury
may compel
witnesses to tes-
tify.

moned before them as a witness, who shall be compelled to testify as to any knowledge he may possess touching any violation of law in relation to elections in the county during the preceding eighteen months; and if he refuses to testify on oath, he shall be committed to prison until he submits, and be fined from ten to thirty dollars by the court, and a like sum for each daily repetition of the contempt.

No exemption
on ground of
criminating self.

§ 19. In any prosecution under this chapter, it shall be no exemption for a witness that his testimony may criminate himself; but no such testimony, given by a witness, shall be used against him in any prosecution, except for perjury; and if used on behalf of the commonwealth, he shall stand discharged from all penalty for any violation of this chapter, so necessarily disclosed in his testimony, as tending to convict the accused.

But the jury shall never convict any one under the provisions of this chapter, upon the testimony of a single witness, unless sustained by strong corroborating circumstances.

Limitation.

§ 20. No prosecution shall be had under this chapter, unless the same is commenced within eighteen months from the time of the commission of the offense.

Common-
wealth's attor-
neys' fees.

§ 21. A commonwealth's attorney shall, as his taxed fee, receive a fifth of any penalty recovered under this act.

CHAPTER XXVI.

PORT-WARDENS.

County court
to appoint.

§ 1. The county courts of the several counties having a town or city situated on the bank of the Ohio or Mississippi river, or situated on the bank of any other river in the state, where the back water reaches from any state dam, shall annually appoint not less than three nor more than four persons, residents of such town or city, as port-wardens of the same, who shall hold their offices respectively for four years, and until their successors are appointed and qualified.

Certificate of
appointment.

§ 2. A port-warden, before entering on the duties of his office, shall receive a certificate of his appointment from the clerk of the court, and take before him the oath of office prescribed by the constitution.

Examination
of vessels, &c.

§ 3. Upon the application in writing of any person interested, it shall be the duty of a port warden to examine the condition of any vessel navigating a river of this state; also, the condition of any cargo or lading on board the same, and the storage thereof; also, the condition of any cargo which, within the twenty-four hours next previous to such application, may have been unladen from such vessel.

Previous no-
tice.

1. Before making such examination, if it be on the application of the master or owner of the vessel, he shall

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first give notice thereof to the owner of the cargo, or his agent, or, to any insurer, or his agent, intended to be affected thereby, if such owner, insurer or agent be within the place. If the application be from an owner of cargo, like notice shall be given to the master, owner, or agent of the vessel, or to the insurer or his agent, if such master, owner, insurer, or agent be within the place.

2. After making the examination, and hearing such proof as either side may produce, he shall make out and sign a statement, in writing, showing the result thereof; and if there be damage, making a fair estimate thereof, and stating the manner and time when the same probably occurred; and if the vessel be not fit for navigation, or the transportation of cargo, stating wherein the deficiency exists.

3. He shall keep a record of any such statement, and give a certified copy thereof to any one applying for it.

4. Such statement or copy, certified over the signature of the port-warden, shall be *prima facie* evidence of the facts stated therein as to the condition of the thing examined, and the amount of damage or injury.

§ 4. Either party may demand the assistance of another port-warden in making the examination and statement; and if the two cannot agree, they shall call in a third, any two of whom concurring may make and sign the statement, which may be recorded and certified by either of them.

§ 5. There shall be paid to each warden, for his services, by the person applying therefor, the following fees:

For the inspection of a vessel or cargo, - - -	\$1 00
For attending at the unloading of a vessel, - - -	1 00
And if detained at such attendance more than one hour, for each additional hour, - - -	25
For each certificate or copy of a record, - - -	50

Statement of result.

Record.

Statement evidence.

Other port-wardens may be called in.

Fees.

CHAPTER XXVII.

INTERNAL IMPROVEMENT.

§ 1. The board of internal improvement shall be composed of the president, auditor of public accounts, and one other citizen of this state, to be appointed by the governor, by and with the advice of the senate, for the term of four years, whose residence shall be on or near the line of navigation of Green and Barren rivers, and who shall be paid out of the public treasury three dollars per day for each day he shall be necessarily engaged in his official duties as member of said board. The auditor shall act as secretary of the board.

§ 2. The board shall keep its office at the seat of government. All works of internal improvement owned by

Who to compose board.

Board to control improvements.

1852.

the state, or which may hereafter be made or directed to be made by the state, shall be under the control and direction of the board; and the board shall vote for the state, to the extent she may be entitled to vote, on account of any stock owned or to be owned by her in any turnpike, railway, or canal, at any election of directors or meeting of stockholders.

Regulate tolls.

§ 3. The board shall, from time to time, regulate the rate of tolls for passing the different locks, appoint collectors of tolls, take from them covenant, payable to the commonwealth, with adequate surety, stipulating for the faithful performance of the trust, require settlements and the payment of all tolls into the treasury, at least once in every month, and allow the collectors reasonable compensation for their services.

Make repairs.

It shall, out of the proceeds of tolls, keep the works in repair, and defray necessary expenses, and pay into the treasury the residue, semi-annually, on the first days of June and December.

Appoint superintendent.

It may also, from time to time, appoint a superintendent of the Green and Barren river works, prescribe his duties, and fix his compensation, not exceeding six hundred dollars a year.

Keep a record.

§ 4. It shall keep a record of all its proceedings, which, together with a full statement of all its actings and doings, and the condition of the works, it shall report to every legislature during the first ten days of its session, and in years when there is no session, make such report to the governor during the month of December.

Sell or lease surplus water.

§ 5. It shall have power to lease or sell, for the benefit of the state, any surplus water which it is ascertained can be spared from either of the dams without injury to navigation, for a term not exceeding thirty years, and with the privilege of renewal at the discretion of the board.

Buy lands, quarries, &c.

§ 6. It may purchase or cause to be condemned on behalf of the state any lands, quarries of rock or gravel, or other material necessary for the proper use and enjoyment of the slack water navigation and water power now erected, or which may be authorized by law, and also for the completion, extension, improvement, or repair of any such works.

Authorise turnpike company to fix tolls.

§ 7. It may authorize any turnpike company to fix such rate of tolls as the board may deem necessary to keep the road in repair and pay the stockholders a dividend of four per cent. annually, on the amount of stock, if the same can be done without making the tolls oppressive and unreasonable.

Reports of turnpike companies.

§ 8. The officers controlling every turnpike company in which the state has an interest as stockholder, shall, once in every three months, report the amount of tolls received during the previous quarter, and a specific statement of

the amounts disbursed for repairs and other expenses. Such report shall be verified by the affidavit of the president or chairman of the board of directors or managers rendering the same. The books of every such company shall, at all times, be subject to the inspection of any member of the board, or of any agent appointed by it.

§ 9. Until altered by the board, the rates of toll for the use of slackwater navigation shall remain the same as now established by law, or by the orders of the board.

§ 10. If rent for the use of water from any of the state works be past due for the space of sixty days, it shall be the duty of the officer having the collection of the rent to close the gates admitting the flow of water for the use of such defaulting lessee, and keep them closed until the rent is paid.

§ 11. Every person opening a gate after it has been so closed, without the permission of such officer, or who shall improperly resist his closing a gate, shall, for every such offense, be fined not less than fifty nor more than two hundred dollars.

§ 12. A flatboat or other craft, other than a steamboat, descending a stream, from a point above the action of any dam thereon, shall not be chargeable with toll, unless it pass through a lock.

§ 13. Whoever shall turn loose, or cause to float a raft or boat on a stream locked and damed, during the night, without keeping up, from half an hour after sunset to half an hour before sunrise, a light thereon that can be seen at the distance of a fourth of a mile, shall, for every such offense, be fined not more than one hundred dollars, or imprisoned not more than thirty days, or both so fined and imprisoned, and shall be liable to any person injured for any damage sustained thereby.

§ 14. The manifest or written statement of the officer of any steam or other boat passing a lock and dam, of the whole amount of freight and the number of passengers on board, shall be signed by him, and verified by his oath, to be administered by the collector of the toll. Any willful false statement so made shall be punished as other perjury.

§ 15. A collector of toll having reason to believe that any fraud has been committed in any such statement, shall visit any point necessary for the detection of the fraud, and exert himself diligently to obtain evidence thereof. He shall appoint a discreet person to act as his deputy during his absence, for whom he shall be responsible, and who, during his absence, shall have all the power of the collector. The collector, whilst necessarily so absent, shall be allowed one dollar and fifty cents a day to defray his traveling expenses.

§ 16. Any steamboat that shall pass over a dam without

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Rates of toll.

When rent not paid, water to be shut off.

Penalty for opening gate.

Toll on flatboats.

Turning rafts, &c. loose.

Statement of freight and passengers.

Collector suspected of frauds.

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Boats passing
locks without
paying toll.

stopping and paying the collector the full toll, and any steam or other boat that shall pass through a lock without paying him full toll, and any boat whose officers shall render a false and fraudulent manifest for the purpose of evading the payment of full toll, shall be liable for the sum of four hundred dollars for each offense, which may be enforced by attachment from the circuit court of the county where the toll is payable, or where the boat may be found. The master and owners, and the officer making such false manifest, shall also be jointly and severally personally liable for such sum, to be recovered in such court. The process in either case may be served in any other county.

Duty of Com-
monwealth's at-
torney.

§ 17. It shall be the duty of the commonwealth's attorney for the district to sue, at the request of the collector, for the recovery of the sum named in the last section, and he shall receive for his services one fourth of the sum collected. The collector shall also be allowed one dollar and fifty cents a day for every day of his necessary attendance on the preparation and trial of such suit.

Condemning
lands, timber,
&c.

§ 18. When the board shall deem it necessary to procure any land, timber, rock, or other material to be condemned for the use of the commonwealth, in the construction, repair, or extension of any public work now or hereafter made, in aid or enlargement of slackwater navigation, it shall file in the clerk's office of the county court of the county where the property is situated, a written petition, describing the property needed, and setting forth the reasons producing the necessity for its condemnation.

Not exceeding
15 acres.

1. The land so to be condemned shall not exceed fifteen acres.

Writ of *ad
quod damnum*.

2. Upon filing the petition the clerk shall issue a writ of *ad quod damnum* to the sheriff of the county, requiring him to summon twelve discreet house keepers on or near the property to be condemned, on some convenient day within six weeks next after the receipt of the writ.

Notice to own-
er.

3. The owner of the property shall have at least twenty days notice, in writing, of the time, place, and object for convening the jury, given by the sheriff. If the owner be in the county, the notice shall be by personal service; if not, it may be by service on his agent or tenant. If he be a non-resident of the state, or he be unknown to the sheriff, the notice may be by publication of a notice in the paper of the public printer for at least four successive weeks.

Oath and find-
ing of jurors.

4. The jurors shall be sworn by the sheriff truly, fairly, and impartially to assess the damage the owner of the property will sustain by its condemnation. They shall state in writing the amount of their assessment, sign the same with their respective signatures, and deliver it to the sheriff, who shall return it with his official return to the clerk of the court. If the jury cannot agree, or if, from

any cause, a trial cannot be had on the day, the sheriff shall adjourn the trial to another day, and, without any new writ or notice, convene another jury, and submit the case to their decision, and so on from time to time, until a verdict is obtained.

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5. The petition and proceedings under it shall stand for hearing at the county court next after the return of the writ.

When case to be heard.

6. If the same be confirmed, an order shall be entered condemning the property for the use of the commonwealth, and ordering the board of internal improvement to be put into possession; provided that the board shall first pay to the owner, or to the clerk of the court for the use of the owner, the amount assessed in his favor and his costs. But if the board elect not to take the property, it may have its waiver of all benefit from the proceedings entered of record at any time before the end of the next ensuing term of the court; and, thereupon, the proceedings shall stand annulled, except that the defendant shall have an order for the payment of his costs; and the board shall be barred from any other proceeding for the condemnation of the property.

When proceedings confirmed.

Board may waive benefit of proceedings.

§ 19. Whoever shall dig, cut, or excavate the rock, dirt, or gravel of the bank of the river, where the same is used for the purposes of slackwater navigation, whereby the water in any pool is diverted from its proper passage over the dam, through the lock, or through a water power canal, shall be fined from one hundred to five thousand dollars.

Penalty for digging, &c., bank of river.

§ 20. Whoever shall willfully and maliciously cut, deface, or injuriously molest a lock or dam, or water power canal, or any of the fixtures or appurtenances of either, shall be fined from fifty to a thousand dollars, and may likewise be imprisoned from one to twelve months.

Cutting or defacing lock or dam.

§ 21. Upon reasonable grounds of apprehension that any person is injuring, or is about to injure or injuriously molest any lock, dam, pool, or canal, or an appurtenance thereto, the board may, upon presenting a bill verified by affidavit, and containing sufficient grounds, obtain an order from any circuit judge, enjoining against and restraining any such injury or molestation, and finally a decree for quieting the board in the possession and use of the property.

Injunction against injury, &c.

CHAPTER XXVIII.

CAVEAT.

§ 1. If any person obtains a survey of land to which another claims a better right, such other may enter a caveat with the register to prevent the issuing of a grant until the right is determined.

When a caveat may be entered.

1852.	1. The caveat shall state the plaintiff's claim, and the reasons why the grant should not issue.
What it shall state.	2. It shall be verified by his affidavit, or by that of his agent, and declare that it is entered in good faith, with the intention of procuring the land for the plaintiff, and not for the benefit of the person against whom it is entered.
To be verified.	3. A copy of the caveat certified by the register, shall, within fifteen days from the time it was entered, be handed to the clerk of the circuit court of the county where the land, or the greater part thereof, lies, who shall immediately issue a summons thereon, returnable to the first day of the next term of the court, against the defendant, and renew the same from term to term, if required.
Summons issued thereon.	4. If the summons be not returned, or be returned not executed, the caveat shall be dismissed at the costs of the plaintiff, unless it appear that the non-return or non-execution was not occasioned by the neglect of the plaintiff.
When dismissed.	5. If the summons is executed fifteen days before the first day of the term, the caveat shall stand for trial at that term, and the defendant shall, on or before its call, file his written response thereto, verified by his affidavit. If the summons be not so executed, it shall stand for trial at the next term after it is so executed.
When tried.	6. All issues of fact made by the caveat and the response shall be tried by a jury, if required by either party.
Jury.	7. If the defendant be a non-resident of this state, he may be proceeded against, and with the like effect, as is permitted against a non-resident in any other suit.
Non-resident.	8. Upon service of the summons, or upon notice to plaintiff of the filing of defendant's response in the clerk's office during vacation, either party, respectively, may proceed to take depositions.
Depositions.	9. The court may permit an amendment of the statement contained in the caveat or response, and may give time for further preparation.
Amendment.	10. If the copy of the caveat be not lodged with the clerk within the fifteen days, it shall be deemed to be abandoned; and upon certificate from the clerk that none such has been left with him, the register may proceed in disregard of the caveat.
When caveat deemed abandoned.	11. The court may, in its discretion, require the plaintiff to give security for costs, and on his failure to give the same, dismiss his suit.
Security for costs.	§ 2. The judgment upon a caveat shall be liable to revision in the court of appeals, by appeal or writ of error, in the same manner, in all respects, as any other judgment of the circuit court.
Appeals, &c.	§ 3. A copy of the judgment, if in favor of the defendant, must be delivered into the land office within three months from the time it is rendered, or a new caveat may, for that cause, be entered against the grant. If the judg-
Judgment delivered to land office.	

ment be for the plaintiff, and a copy thereof not delivered into the land office within six months from the time it was rendered, any other person may, for that cause, enter another caveat against the grant.

1852.

§ 4. No grant shall issue to the land in contest to the plaintiff in the caveat, or to another for his use, until the caveat is dismissed or decided; and any such grant, to the extent of such land, shall be void.

No grant, caveat pending.

§ 5. Where the plaintiff does not prosecute his caveat as herein required, or the same is dismissed or decided against him, neither he nor any other for his use, shall have another caveat against the same grant.

Second caveat not allowed.

CHAPTER XXIX.

REGISTER.

§ 1. The person elected register of the land office, or appointed to fill a vacancy therein, shall, before entering on the duties of the office, give a covenant to the commonwealth for the faithful discharge of its duties, with good surety, worth not less than ten thousand dollars.

Covenant with surety.

1. The form of the covenant must be approved by the attorney general, and the sufficiency of the surety approved by the governor, attorney general, and auditor, or by two of them; and if such surety afterwards become insufficient, they, or any two of them, may require a new covenant, with good additional surety, to be given within a named period, of not less than thirty days, after notice to the register.

By whom surety approved.

When surety becomes insufficient.

2. The covenant, when executed, must be left with the auditor for safe keeping.

Left with auditor.

3. If such covenant be not given within thirty days after election or appointment, or such new covenant given within the time directed, the office shall be deemed vacant.

When given.

§ 2. The land office shall be under the care and control of the register, who may, from time to time, appoint not more than two deputies to aid him therein.

Land office.

§ 3. All fees, including that for issuing the patent, shall be paid on filing a survey. If the register give credit to any one for fees, he shall account therefor as if they had been paid.

Fees.

§ 4. The register shall keep his office supplied with the necessary presses, books, stationery, and implements; an account of which, approved by the governor, shall be paid by the treasurer on the warrant of the auditor.

Presses, stationery, &c.

§ 5. He shall deliver to the owner any land warrant in his office only partially appropriated, with an indorsement showing how much remains to be appropriated.

Warrants partially appropriated.

1852.

Books, &c.

§ 6. He shall not suffer any of the books or papers of his office to pass into the hands of any unauthorized person, nor shall he permit any one but his clerks to have access thereto.

Omissions supplied.

§ 7. The register shall supply upon the record the omission of the name of a governor to a patent, when the original patent, with the governor's signature thereto, is produced to him, showing the omission; and the omitted name of the governor may also be supplied when it appears from official indorsements on the papers in the office, or by official marginal notes, that the patent regularly issued and was delivered to the proper person.

Where any former register has omitted to affix the seal of office to any official deed, the register may supply the omission on the original deed, and it shall have the same effect as if it had been originally affixed thereto when made.

Advice of attorney general.

§ 8. He shall take the advice, in writing, of the attorney general in all cases new and difficult which may arise in his office, which shall be his indemnity for all proceedings had in conformity thereto.

Copies.

§ 9. "A copy attest," shall be sufficient authentication of any record or paper in the land office, when signed by the register or his deputy.

CHAPTER XXX.

IMPEACHMENT.

Petition to H. R.

§ 1. A person desirous of procuring the impeachment of any officer shall, by petition in writing to the house of representatives, signed by himself, and verified by his own affidavit, and the affidavits of such others as he may deem necessary, set forth the facts upon which he prays an impeachment.

Referred.

1. The house shall refer the petition to a committee, with power to send for persons and papers, and to report thereon.

Committee to prosecute.

2. If an impeachment be ordered, a committee shall be appointed to prosecute the same, whose chairman shall, within five days, lay the same before the senate.

Accused summoned.

3. The senate shall appoint a day for hearing the impeachment. The accused shall be summoned, by precept issued by the clerk of the senate, to appear on that day. The precept shall be served in person, or a copy left at his residence with some white member of his family over the age of sixteen years, together with a copy of the impeachment.

Summoning witnesses, &c.

4. The clerk of the senate shall, at the instance of the chairman of the committee, or of the accused, issue process for the summoning of witnesses, and the production of

books or papers, which shall be executed in the same manner, and be obeyed under a like penalty, as is prescribed for disobedience to similar process issued by a court.

1852.

5. A witness summoned shall also receive like compensation, and have the same privilege, in going, remaining, and returning.

Witness' pay,
&c.

6. If the accused is acquitted, he shall be entitled to his costs, to be taxed by the clerk, and paid by the party petitioning; and if he be convicted, he shall, in like manner, pay such party the costs incurred in behalf of the prosecution. The amount of costs so taxed by the clerk in favor of either party, may be recovered by motion against the other, after five days notice, in a circuit or county court.

Costs.

§ 2. Before the senate proceeds to try an impeachment, the speaker and every member present shall take the following oath or affirmation: "I do solemnly swear (or affirm,) that I will faithfully and impartially try the impeachment against A. B., and give my decision according to the law and the evidence."

Oath of senators.

§ 3. In like manner, under like responsibility, a person may petition either or both houses to have an officer removed by address, which shall, in like manner, be referred to a committee. In either mode of proceeding, the petitioner shall be responsible to witnesses, and to the accused, for the costs of an investigation before a committee, to be taxed by the clerk of the house appointing the committee, recovered, as before directed, if the committee report against the petition, and the report be not overruled by the house.

Removal by
address.

Costs.

§ 4. Nothing herein shall be construed to render it necessary that there shall be a person petitioning for impeachment or removal by address to the institution of either proceeding.

No petition necessary.

CHAPTER XXXI.

PARTNERSHIPS.

§ 1. Limited partnerships for the transaction of mercantile, agricultural, mechanical, and manufacturing business, or for the mining and transporting of coal, may be formed upon the terms, and subject to the conditions and liabilities prescribed in this chapter; but none such shall be formed for the purpose of banking, brokerage, or insurance.

Limited partnerships.

§ 2. Such partnership may consist of one or more persons as general partners, with the powers and responsibilities of partners, and of one or more persons as special partners, who, contributing a specific amount of cash, actually paid in as capital, shall not be personally liable for the debts or responsibilities of the partnership, except as

Special partners.

1852.	herein named, nor have any power to bind the partnership, or manage its affairs.
Written statement.	<p>§ 3. The persons desiring to form such partnership shall sign a written statement, showing the name and place of residence of each partner, the name or style of the firm, who are general and who are special partners, the amount contributed by each special partner, the general nature of the business to be transacted, the place or places at which the business is to be transacted, and the duration of the partnership. One or more of the general partners shall verify by affidavit the truth of the statement as to the amount paid in by any special partner.</p>
To be recorded.	<p>§ 4. Such statement and affidavit shall be acknowledged or proved before and recorded by the clerk of the county court of the county or counties in which the place or places of business is or are situated, in the same manner as deeds are acknowledged, proved, and recorded.</p>
To be published.	<p>No limited partnership shall be deemed to be formed or allowed until such record is made, nor until such statement shall have been published once a week for four successive weeks, in a newspaper printed in each of the places where the business is to be carried on, if there be any such paper published there; and if not, then in the newspaper published in the place nearest thereto.</p>
If statement false.	<p>If any part of such statement be false, the special shall be liable as general partners.</p>
What partnership deemed dissolved.	<p>§ 5. The partnership shall be deemed to be dissolved when there is a change in the partners, in the nature of their business, or a withdrawal of capital, or a diminution thereof, otherwise than by a loss in business, or the defraying of such personal expenses of living as may have been originally agreed for; and if the partnership be thereafter carried on, and such act done with the knowledge of any special partner, it shall, as to him, be deemed a general partnership.</p>
How renewed.	<p>§ 6. Every renewal or continuance of a limited partnership shall be made, recorded, and published in the same manner as is required for the original statement, except that there need not be any re-payment of the cash capital advanced by the special partners.</p>
Firm name.	<p>§ 7. The business shall be conducted under a firm name, composed exclusively of the name or names of some or all of the general partners, without the addition of the word "company," or any equivalent term.</p>
Special partner using name of firm.	<p>If the name of any special partner be used by the firm with his consent, or if he make any contract or transact any business for the firm, as agent or otherwise, he shall be deemed a general partner. But he may examine the condition of its affairs, and advise as to conducting its business, without so becoming a general partner.</p>
	<p>§ 8. If the whole or part of the capital advanced by a</p>

special partner be withdrawn by him, he shall be responsible to creditors therefor, with interest from time of withdrawal.

§ 9. If the partnership become insolvent, no special partner shall be paid as a creditor of the firm, or receive the benefit of any lien in his favor as such, until all the other creditors of the firm are satisfied.

§ 10. No sale, transfer, or charge upon the property or effects of the firm, or any member thereof, made for the purpose of giving a preference or priority to one over others of his or its creditors, shall be valid against its creditors, if made when he or the firm is insolvent, or in contemplation of insolvency.

§ 11. No dissolution of a limited partnership, otherwise than by its terms, or the operation of law, shall take place, unless the same be advertised in the manner herein prescribed by its formation.

§ 12. The general partners shall sue and be sued, as if they were the only partners, except in cases where the special partner is liable as general partner, when he may be sued with the others, or, if judgment has been obtained against them, he may be sued separately.

§ 13. Special shall be liable as general partners, unless the firm keeps up, at each of its places of business, a plain and legible sign, giving the style of the firm, with also the words "limited partners."

1852.

Capital withdrawn.

When insolvent.

Transfers giving priority.

Dissolution advertised.

How partners sued.

Liability of special partners

CHAPTER XXXII.

SERGEANT.

§ 1. A sergeant of the court of appeals shall be appointed by that court, and the office filled by the court whenever a vacancy occurs. If a vacancy occur during the recess of the court, it shall be filled by the appointment of the chief justice until the fifth day of the court's next sitting.

§ 2. The court, or in vacation the chief justice, may suspend the powers of the sergeant, and, for good cause, the court may, after ten days notice, remove him from office. It may also, at any time, require additional security in his official covenant, and suspend or remove him for not giving the same.

§ 3. The sergeant shall hold his office for the term of four years from the time of his appointment, and until his successor is qualified.

1. He shall be a citizen of the state, at least twenty-five years of age, and before entering on the duties of the office shall give a covenant to the commonwealth for the faithful discharge of the duties of his office, with surety to be approved by the court, who shall be good for at least ten thousand dollars.

Appointed by court.

May be suspended.

Term of office.

Qualifications.

Surety.

1852.	2. He may, with the approval of the court, appoint one or more deputies, and remove them at his pleasure.
Deputies.	3. He shall perform towards the court of appeals all the duties required by law from a sheriff towards a circuit court.
Duties.	4. He shall receive sixty-two and a half cents for each person upon whom he serves a notice or summons, and for all other services rendered by him as sergeant, he shall receive the same fees and compensation as is allowed by law to sheriffs for similar services, and collect his fee bills in the same manner. Moreover, he shall receive three cents for every mile necessarily traveled in the execution of any summons or other similar process, out of the county in which the court is held. But if more than one defendant is included in the same process, and resides or be found on or near the same route, mileage shall be charged only for the one most remote. It shall be in the discretion of the court whether to allow mileage to be taxed in the bill of costs, against a party who did not order process to be directed to the sergeant.
Fees.	5. The original or final process of the court may be directed to him or to the sheriff of any county, except that an execution for costs from the court of appeals shall not be directed to the sergeant.
Process directed to him.	6. For any breach or neglect of duty he shall incur the same fines and penalties as are prescribed by law against sheriffs for like breach or neglect.
Failure in duty.	7. For all fees for services rendered the commonwealth, he shall exhibit his account to the court, and upon its allowance and certificate therefor, the auditor shall issue his warrant, directing the same to be paid out of the treasury.
Accounts allowed by court.	§ 4. The like remedy may be had on the official covenant of a sergeant as is allowed on the official bond or covenant of a sheriff, with the like recovery.
Remedy on covenant.	

CHAPTER XXXIII.

INSPECTIONS.

ARTICLE I.

Tobacco.

§ 1. The several county courts shall have power to appoint two tobacco inspectors for each tobacco inspection warehouse now established, or which may hereafter be established in their respective counties, as vacancies may occur; also, after notice, to remove an inspector for misconduct, negligence in the discharge of his duty, or incompetency, and also to fill all vacancies in the office.

No member of the court shall be allowed to vote, in the appointment of an inspector, for his father, father-in-law, son, son-in-law, uncle, nephew, or cousin.

County court
to appoint in-
spectors.

Not to vote for
kindred.

§ 2. The court may also establish new inspection warehouses, but none such shall be within a distance of less than three miles of any established warehouse, on the same side of a river, except in cities and towns. The court may, also, after notice to the owner, discontinue any inspection warehouse for insufficiency of the building, or for the want of the proper scales and weights.

§ 3. Every such warehouse must be built of brick or stone, or of scantling inclosed with strong planks well nailed on, or of logs so close as to keep safely and prevent injury from the weather, to articles stored therein, with a good tight roof, and proper fastenings to the doors and windows.

The warehouse must always have, as an appurtenance, scales, or steel-yard, or patent balance of sufficient size and strength to weigh at least a ton, with the suitable and necessary cast iron weights.

§ 4. An inspector shall hold his office for four years, and until a successor is appointed and qualified.

Incumbent inspectors shall hold their offices until the first of October next ensuing the expiration of their present terms, and appointments hereafter made shall be for four years from the next succeeding or last preceding first of October, whichever may be nearest. No appointment shall be made more than six weeks next preceding the regular expiration of the term, except to fill a casual vacancy.

§ 5. An adjunct inspector shall be appointed for each warehouse, for like term, in like manner, and be removable in the same way as the principal inspectors. He shall act in cases of difference of opinion between the inspectors, or where either of them is unavoidably absent, or interested in the tobacco offered for inspection.

§ 6. An inspector, before entering on the duties of his office, shall give covenant, with good surety, to be approved by the court, payable to the commonwealth, worth five thousand dollars, stipulating for the faithful performance of his duty as inspector; he shall also, prior thereto, take an oath or affirmation faithfully, honestly, and impartially to discharge the duties of his office.

1. The covenant may be sued on at the instance and costs of any relator injured by the act or omission of the inspector.

2. The inspectors shall daily attend the warehouses under their charge, from the first of November to the first of June, Sundays and general holidays excepted; and during the balance of the year, one of them shall attend when necessary for the delivery of tobacco.

3. They shall enter in a book to be kept for that purpose the marks and owner's name of every hogshead of tobacco brought to the warehouse, with the time of delivery, and

1852.
Inspection
warehouses.

How built.

Scales.

Term of office.

Adjunct in-
spector.

Covenant with
surety.

Suits thereon.

Attendance
of inspectors.

Entry and re-
ceipt.

1852.

Inspection in
turn.

How made.

Hands.

Inspector, &c.
not to be inter-
ested.Failing to de-
liver, &c.New inspect-
ors, &c.

Lost receipts.

Hogsheads,
size, &c.Inspection,
where made.Prohibitions
repealed.Liability for in-
jury, &c.

if inspected, the quality, gross and net weight, and give the owner a receipt therefor.

4. The inspection of all tobacco shall progress in due turn as brought in.

5. The inspection shall be made by both inspectors, after the hogshead is uncased and broke. If they agree that it is good, sound, merchantable, and clear of trash, the tobacco and its casing shall be separately weighed with standard weights and scales, or steel-yard, and the name of the warehouse, with gross and net weight durably marked on the head and bulge of the hogshead. The quality and weight shall be expressed in the receipt given for any inspected tobacco. If rejected, the word "refused" shall be branded on the head and bulge of the cask.

6. The inspectors shall constantly keep, for the business of the warehouse, such necessary hands as the court may prescribe.

7. No inspector, breaker, sampler, cooper, or other person employed by the inspectors or owner of the warehouse, shall, directly or indirectly, be concerned in the business of stemming, or in that of buying or selling stemmed tobacco; nor shall he purchase tobacco inspected at his warehouse. For every violation of these prohibitions, he shall be fined one hundred dollars, removed from office, and disqualified from again holding the office of inspector.

8. If the inspectors refuse or fail to deliver to the owner or his assignee, on demand, any tobacco pursuant to their receipt, he may recover from them double the value thereof.

9. New inspectors shall give their predecessors receipts for all tobacco remaining on hand at the time of their appointment, and thereafter shall be responsible for the same, and the predecessors discharged from such responsibility.

Upon the death, resignation, removal, or expiration of the term of only one of two inspectors, the other inspector and the successor shall give such receipt.

§ 7. Upon affidavit made by the owner of a tobacco receipt, or his assignee, that the same has been casually lost or destroyed, the inspector shall give him a duplicate receipt, or deliver the tobacco upon his demand.

§ 8. Every tobacco hogshead shall be made of well-seasoned staves, not more than fifty-two inches in length, with thirty-four inches in the prizing head, within the crows, allowing for prizing not more than two inches above the gauge in the prizing head.

§ 9. No inspection of tobacco shall be made elsewhere than at a lawfully established warehouse; but none shall be inspected unless so required by the owners.

All prohibitions or penalties against the vending or exportation of tobacco without inspection, are repealed.

§ 10. There shall be no liability on the part of the commonwealth for any tobacco stored in an inspection ware-

house, nor shall the inspectors be responsible for its destruction or injury by fire, unless the fire resulted from the misconduct or negligence of themselves or their servants.

§ 11. The proprietor of an inspection warehouse shall, so long as he permits its use as such, receive fifty cents for every hogshead of tobacco received in and delivered therefrom, and five cents per month for each hogshead remaining more than twelve months, to be settled for and paid by the inspectors, half yearly, in the months of January and July.

The owner of the tobacco shall, in addition to the warehouse fee, pay the inspectors, at the time of delivery, thirty-seven and a half cents for each hogshead; and if it has been inspected, an additional thirty seven and a half cents for each hogshead; and when it has been coopered, fifty cents for nails and cooperage.

ARTICLE II.

Inspectors, &c.

§ 1. The several county courts may, from time to time, lay off the whole or any part of their respective counties into convenient inspection districts, alter or abolish the same, and appoint an inspector in each for the inspection of flour, of salted beef or pork, of lard, of spirituous liquor, and of imported salt. There may be an inspector of each of said articles; or where the amount of business does not otherwise require, one inspector may be authorized to inspect the whole or any part of them for the entire county, or for one or more districts.

When there is a city within the limits of a county, the power herein given in relation to the inspection of the articles named in this section, and of appointing and removing inspectors, and laying off inspection districts within the city, shall be vested in the city council of such city.

§ 2. In the appointment of any such inspector, no member of the court, or of the council, shall be allowed to vote for his father, father-in-law, son, son-in-law, uncle, nephew, or cousin.

§ 3. Such inspector shall hold his appointment for two years, and until his successor is appointed. He shall, before commencing his duties, swear or affirm to discharge the same honestly and impartially. He may be removed, at any time, by the court or council, for neglect of duty, incapacity, or misconduct; and the order of removal shall not be elsewhere revised or reversed.

§ 4. No such inspector shall inspect within the district of another inspector, unless such other be sick, absent, or otherwise unable to attend.

§ 5. Every such inspector may, with the consent of the court or council, appoint a deputy, who, after taking the oath required of the principal, may exercise any power of

1852.

Compensation
to owner of
warehouses.

Fees, &c.

Inspectors of
flour, beef, &c.

No member of
court to vote for
himself.

Term of office.

Not to inspect
in another dis-
trict.

Deputy.

1852.

the principal, and for whose acts the principal shall be responsible.

Purchaser may
demand inspection.

§ 6. No inspection of any such articles shall be made but at the request of the owner; but the purchaser, before acceptance of delivery, may refuse to complete his purchase until the article has been inspected, and passed as merchantable; such inspection to be at the cost of the seller and purchaser if passed, but of the seller alone if rejected.

Penalties re-
pealed.

All penalties for the sale or exportation of such articles without inspection are repealed.

Flour.

Merchantable
flour.

§ 7. Wheat flour, to be merchantable, shall be sweet, well bolted, of due fineness, without mixture of coarser flour, or of any other grain or thing.

Barrel.

1. The barrel shall be made of good seasoned timber, tightened with ten good hoops, and the chime hoops nailed with four and the bilge hoops with three nails; the staves twenty-seven inches long, and the head seventeen and a half inches in diameter. In half barrels, the staves to be twenty-three inches long, and the head to be twelve and a half inches in diameter.

Barrel 100 lbs.

2. The barrel of flour shall contain one hundred and ninety-six pounds, and the half barrel ninety-eight pounds of flour.

Brand.

3. If the flour be packed in a suitable barrel, is of proper weight, and be deemed merchantable, the inspector shall brand the head with the name of the place of inspection, and the quality as "superfine," "fine," or "middling." If found unmerchantable, it shall be branded on the bilge with the word "condemned."

Inspection,
how made.

4. The inspection shall be made through an auger hole at one side of the head, not exceeding half an inch in diameter, and by passing the auger twice through the flour. The inspector shall plug the hole thus made.

The inspector may unpack the flour to ascertain its weight if he deem it deficient, and shall do so at the request of a purchaser. The cost of unpacking and re-packing to be paid by the owner, if it prove deficient in weight, otherwise by the inspector or the purchaser.

Mill or own-
er's name.

5. Every barrel or half barrel, before sent from the mill, shall be branded by the name of the mill or its owner.

Penalties for
failure, &c.

6. For every barrel or half barrel of flour sent from the mill without being so branded, the owner or manufacturer shall be fined thirty-five cents, and a like sum if not properly hooped and nailed. For any deficiency in the weight, he shall be fined at the rate of ten cents per pound up to three pounds, and for every pound more than three, twenty cents. For every barrel or half barrel falsely packed, by the mixture of the flour of any other grain or thing than

wheat, or by the packing of middlings with fine or superfine flour, he shall be fined two dollars; and any other person knowing it to be so falsely packed, or deficient in weight, selling or offering to sell it, shall incur the like penalty.

1852.

Salt.

§ 8. Salt imported into this state for sale may be inspected by running an inch auger diagonally through the cask or package containing it. When found merchantable, and not falsely packed, the cask or package shall be branded or marked by the inspector with the word "inspected;" otherwise, with the word "refused."

Inspection
brand, &c.

Liquor.

§ 9. The staves and heading of a merchantable liquor barrel shall be made of good, well seasoned timber, clear of sap: the staves to be thirty-two inches long, from three quarters to an inch thick at each end, from a half to three quarters of an inch thick at the bilge, and not more than an inch thick anywhere; the heading to be eighteen inches in diameter in the clear, from an inch to an inch and a quarter thick, with not less than two strong dowels in each seam, and the barrel to be bound with not less than fourteen strong hoops.

Barrel.

1. The inspector shall mark the head of the cask with the number of gallons found therein, and the proof of the liquor, first, second, third, or fourth.

Inspector's
marks.

2. And if it be found under first proof, it shall be marked "refused."

Beef, pork, and lard.

§ 10. A merchantable barrel for the packing of beef or pork shall be made of well seasoned white oak, clear of sap, twenty-nine inches long, with a cut head of seventeen and a half inches in diameter, tightly bound with strong hoops, extending one-third the whole length from each end, and when packed and headed, the outer hoop at each end secured with four suitable nails.

Barrel.

§ 11. A barrel of beef or pork shall contain two hundred pounds of sound, clear, well slaughtered, and well fattened meat, and be denominated and assorted as follows:

Barrel, 200
pounds.

1. Mess beef shall have twenty pieces, each weighing ten pounds, or as near as may be, well assorted from the different parts of the carcass, excluding legs, leg rounds, necks, and shoulder clots.

Mess beef.

2. Prime beef shall be cut and assorted in same manner, but may include two pieces from leg rounds, leaving out the point of the neck, and all clotted pieces.

Prime beef.

3. Fifty pounds of clean, fair, dry salt, and four ounces of salt petre shall be put into each barrel of beef, and when the barrel is packed and headed, it shall be filled up with strong salt pickle.

Salting, &c.

- 1852.**
Prime pork. 4. Prime pork shall have twenty-five pieces, each weighing eight pounds, as near as may be, which may include one head and a half, and six shanks, excluding the legs, ears, and snouts, so as to be composed of the assorted meat of a hog and a half; or in lieu thereof, three shoulders, one head and a half, and the remainder in side pieces, excluding the legs, snout, and ears.
- Mess pork.** 5. Mess pork shall have twenty-five pieces, of eight pounds each, as near as may be, taken from the middlings or sides of hogs weighing two hundred pounds and over.
- Navy pork.** 6. Navy pork shall have twenty-five pieces, of eight pounds each, as near as may be, as assorted, and out of hogs weighing one hundred and fifty pounds and over, excluding all shanks and faces.
- Salting, &c.** 7. Pork shall be packed on the edge, with fifty pounds of clean, fair, dry salt, and two ounces of salt petre in each barrel. When packed and headed, the barrel shall be filled with strong salt pickle.
- Half barrel.** 8. A half barrel shall be made in like manner, and of like material, twenty-four inches in length, with a head fourteen inches in diameter, and each outer hoop secured with three nails.
- Inspector's brand.** § 12. Every barrel or half barrel of beef or pork which passes inspection shall be branded by the inspector with the name of the county or city where inspected, the kind, quality, and quantity of the meat; if it do not pass, he shall brand it on the bilge "refused."
- Lard, inspection of.** § 13. Lard shall be packed in tight, well seasoned kegs or firkins, with its weight marked thereon. The inspector shall bore diagonally through the lard, ascertain that it be clear of mould, rancid, or musty taste, and if so, brand it "inspected;" if not, brand it "refused."

Fees.

- Fees.** § 14. The fee for inspection shall be as follows:
1. For each barrel of flour, three cents; half barrel, two cents.
 2. For each barrel of salt, three cents; for a sack of salt, two cents.
 3. For inspecting and packing each barrel of beef or pork, twenty cents; for each half barrel, twelve cents, and for each keg or firkin of lard, two cents.
 4. For a single barrel or cask of liquor, twelve and a half cents; for more than one and less than five, seven cents, each; and for five or more, five cents, each.

ARTICLE III.

Penalties, &c.

- Inspector dealing in article.** § 1. If any inspector shall deal in or purchase, otherwise than for his own use, any article of which he is appointed inspector, or be directly or indirectly interested in the pur-

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chase of any such article when condemned, he shall be fined five dollars for every barrel, cask, keg, firkin, or package, so bought or dealt in by him.

§ 2. An inspector shall be liable to the party aggrieved for the incapacity, neglect, fraud, or misconduct of himself or deputy as inspector, and furthermore for every willful neglect or breach of duty, and every act of partiality or fraud as inspector, he or his deputy shall be fined fifty dollars, removed from office, and disqualified from again holding such office.

Liable for incapacity, neglect, fraud, &c.

§ 3. If any person shall willfully use or imitate the brand or mark of another on the barrel or cask of any such article, or shall pack or put such article in a barrel, cask, box, keg, or firkin previously branded with the name or mark of another, or shall alter, erase, or obliterate the brand or mark made by an inspector on an inspected hogshead, barrel, cask, keg, or firkin, or shall shift or change the contents of the same after inspection, or shall mark or brand with the mark or brand of an inspector, or with any imitation thereof, any article subject to inspection which has not been inspected, and shall sell or offer to sell the same, he shall, for every such offense of false marking, using, packing, changing, or shifting, be fined twenty dollars; and for every such fraudulent erasure, alteration, or counterfeiting of the brand or mark of an inspector, shall incur the penalties prescribed against forgery.

Frauds in relation to brands, &c.

§ 4. Whoever shall sell or offer to sell any barrel or other package of such article, knowing the article not to be of the weight or quantity, after allowing for ordinary waste or loss of weight, that is required by law, or that is marked or branded thereon, shall be fined ten dollars for every barrel or package so sold or offered for sale.

Selling false weights, brands, &c.

§ 5. Every tobacco or other inspector who shall exact, demand, or receive any more than the legal fee or other compensation for inspecting, shall, for every hogshead, barrel, or package upon which he exacts, demands, or receives such higher fee or other compensation, be fined five dollars, removed from office, and disqualified from being again an inspector.

Inspector demanding illegal fees.

§ 6. Whoever shall knowingly sell, or attempt to sell, any hogshead, barrel, or other package of tobacco, liquor, salt, beef, pork, or lard which is falsely packed or filled, or the staves or heading of which are falsely made, with a view to cheat a purchaser as to weight or quantity, or shall so pack, fill, or prepare a hogshead, barrel, or other package, with such intent, shall be fined ten dollars for every such hogshead, barrel, or other package.

Frauds in cask, weight, quantity, &c.

§ 7. It shall be the duty of every inspector to have an offender prosecuted for any of the penalties incurred under this chapter; and his willful neglect so to prosecute shall be deemed a breach of official duty.

Inspector to prosecute.

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Adulterating
liquors.

§ 8. If a person knowingly sells or buys, or prepares for sale, any wine or liquor containing any adulteration by mixing therewith coculus indicus, tobacco, soap, vitriol, logwood, or any other injurious drug or chemical preparation, he shall be fined not more than five hundred dollars for each offense, or not less than twenty for every gallon of wine or liquor so adulterated.

When adulteration found or suspected.

1. When an inspector finds any wine or liquor so adulterated, he shall mark the cask, "condemned for impurity;" when he suspects it to be so adulterated, he shall cause it to be analyzed by a skillful chemist, at the cost of the owner, and ascertain whether it contains any thing impure, or other than the extract of the grain or fruit from which it was or ought to have been made.

Rectifying evidence of adulteration.

2. In all prosecutions against wholesale dealers under this section, the fact of rectifying the wine or liquor shall be deemed *prima facie* evidence of knowledge of any adulteration, on the part of the dealer.

Inspections.

Louisville tax on tobacco repealed.

§ 9. So much of the charter of the city of Louisville as authorizes the levying of a tax of two per cent. on the proceeds of sale of any tobacco stored at an inspection warehouse in said city, sold at auction or by public outcry by the inspectors thereof, is repealed.

CHAPTER XXXIV.

WEIGHTS AND MEASURES.

Standard.

§ 1. The weights, measures, and balances received from the government of the United States, now in the custody of the secretary of state, shall continue in the custody of that officer, and shall be the standard of weights and measures in this state.

Duplicates to be made.

§ 2. The governor shall cause duplicates of those weights, measures, and balances to be made for such counties as have not been furnished therewith; and upon his written certificate of the cost, the auditor shall give a warrant on the treasury therefor.

County court to procure duplicates.

§ 3. The county court of every county not furnished with such duplicates within one year from the time this chapter takes effect, or from the time it becomes a county, shall, at the expense of the county, procure the same from the governor, after paying the cost thereof into the state treasury, and cause the same to be kept by some person in the county appointed, from time to time, for that purpose.

Penalty for failure.

If any county court fails to comply with this section, the members thereof shall be fined not less than twenty nor more than fifty dollars each; and they shall incur a like penalty for every annual repetition of the offense.

§ 4. Any person desirous of having his weights tested, may have the same done by the person appointed to keep such duplicates, who, if he find them correct, shall seal them with a seal to be provided by the county court for that purpose.

For testing any steel-yard, balance, or beam, the assessor shall receive from the applicant a fee of twenty-five cents for testing every weight or measure, five cents.

§ 5. Any person who shall buy or sell by any weight, balance, or measure that does not correspond to and agree with such duplicates, or shall keep the same for the purpose of buying or selling therewith, shall be fined four dollars for every offense, or a like sum for every month he may continue to keep the same.

§ 6. The hundred weight shall consist of one hundred pounds, avoirdupois, and two thousand such pounds shall constitute a ton; and all contracts hereafter made shall be construed accordingly, unless the contrary be expressly stipulated.

§ 7. Sixty pounds of wheat, fifty-six pounds of rye, fifty-six pounds of Indian corn, forty-eight pounds of barley, thirty-three and a third pounds of oats, sixty pounds of potatoes, sixty pounds of beans, twenty pounds of bran, sixty pounds of clover seed, forty-five pounds of timothy seed, fifty-six pounds of flax seed, forty-four pounds of hemp seed, fifty-two pounds of buckwheat, fourteen pounds of blue grass seed, fifty pounds of corn meal, fifty-seven pounds of onions, and fifty pounds of salt, shall constitute a bushel of such articles, respectively.

1852.
Assessor
1851
1850
1849

Assessor for different weights or measures.

Cwt., 100 lbs.
ton, 2,000 lbs.

Weight of bushel.

CHAPTER XXXV.
SCHOOLS AND SEMINARIES.

School fund.

§ 1. The auditor shall keep the accounts in relation to the school fund dedicated by the constitution to sustaining a system of common schools, allow no expenditures on that account beyond the annual revenue of the fund, and see that no county draws more than its proper proportion.

1. He shall apportion, each year, the revenue from the fund, among the several counties of the state, according to the number of free white children in each between the ages of six and eighteen years, as shown by the returns of the assessors in his office. The apportionment shall be made from the first to the tenth of December of each year, and if the return for any county be not then in, he shall use its return of the preceding year.

2. His accounts shall show what remains to the credit of any county at the end of each year.

Auditor to keep accounts.

To apportion revenue.

Balance to credit of county.

LAWS OF KENTUCKY.

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Ad-
ditional
Revenue to
distributed.

Revenue paid
to treasury.

Disposition of
balance not call-
ed for.

3. The net revenue of the fund is the sum to be distributed, and whatever expenses may be incurred according to law by the board of education, shall be first paid out of the gross revenue of the fund. No part of said income shall be expended by the establishment of any school or seminary, other than common schools, in each county.

§ 2. The revenue of the school fund, and the proceeds of all taxes levied in aid thereof, shall be paid into the treasury, but shall never be drawn or appropriated otherwise than pursuant to this chapter, in aid of common schools.

§ 3. The balance to the credit of the counties, not called for each year, shall be transferred by the board of education to the commissioners of the sinking fund; and the governor shall execute to the board of education a bond of the state therefor, redeemable at the pleasure of the legislature, and not transferable, bearing six per centum interest, payable annually, and specifying therein the amount due to each county. The interest accruing to each county may, at the call of the school commissioners, be used for common school purposes in such county, and shall be paid by the commissioners of the sinking fund.

Board of education.

Who to com-
pose it.

§ 4. The attorney general, the secretary of state, and the superintendent of public instruction, and their successors in office, shall be a body politic and corporate, with perpetual succession, by the name and style of the board of education for the state of Kentucky, subject to alteration and repeal by the legislature.

May hold real
estate.

1. The corporation may take, hold, and dispose of real or personal estate, for the benefit of the common schools of the state.

Superintendent
president.

2. The superintendent shall be president of the board, but any two of its members may control its corporate action.

To keep re-
cord.

3. The superintendent shall keep a record of the proceedings of the board, and its corporate acts shall be attested by his signature, or by the signatures of the other members, and his or their private seal or scroll shall stand in lieu of a corporate seal.

Board to make
regulations for
schools.

4. The board shall, from time to time, adopt regulations for the government of the common schools, recommend the course of instruction therein, and the class books to be used.

Instruction
prescribed.

5. The instruction prescribed by the board shall not go beyond the elements of a plain education in English, including grammar, arithmetic, and geography.

Form of re-
turns.

6. The board shall prescribe the form of returns to be made by county commissioners and trustees, and the superintendent shall distribute printed copies thereof.

Superintendent.

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§ 5. The superintendent shall, biennially, make report to the legislature of the condition of common schools, and their prospects; the amount and condition of the school fund; how its revenue has been disbursed, and the increase it may require; and as to the practical working of the common school system of the state, with suggestions as to any alterations it may seem to require.

Superintendent to report biennially.

1. He shall also visit and deliver a public lecture on the advantages of common schools, in at least twenty-five counties annually, until he visits all the counties of the state; after which time he shall be employed at least one week in every month in visiting such counties where he may deem his services will be of most avail in promoting the establishment of common schools.

To visit and lecture.

2. He shall, on or before the first day of every February, make a detailed report to the auditor of all the school districts which have been organized, and in which a common school has been kept according to law during the preceding year; the names of the several school commissioners in each county, and of the counties to which he has given certificates, as entitled to distribution during the year.

Annual report to auditor

3. He shall keep his office in the city of Frankfort, or in some city or town within sixty miles thereof.

Office.

4. He shall enter on the duties of his office as soon as he has taken the oath of office under his commission.

When enters on duties.

Commissioners.

§ 6. The county court of each county, where it has not already been done, shall appoint one, two, or three commissioners for common schools in the county, remove them for neglect of duty or misfeasance, and fill any vacancy that may occur.

County court to appoint commissioners.

1. A commissioner, before commencing his duties, shall take the oath of office, and give a covenant to the commonwealth, with sufficient surety to be approved by the court, for the faithful discharge of his duties as commissioner.

Oath and surety.

2. He shall hold his office for the term of two years, and until a successor is appointed and qualified.

Term of office

3. The commissioner or commissioners for each county shall be a body politic and corporate, by that name, with perpetual succession, and, as such, may receive, hold, and dispose of real and personal estate for the use and benefit of the common schools of the county, or of any district therein. His or their private seal or scroll shall stand in lieu of a corporate seal.

Commissioners a corporation.

4. One of them shall reside at or conveniently near to the county seat, unless it constitute a separate district under the control of its local authorities.

Where reside

5. He or they shall, once a year, or oftener, if required,

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Accounts to
be settled.

settle his or their accounts with the county court, and immediately thereafter a certificate thereof, from the clerk of the court, shall be forwarded by the commissioner to the superintendent, who shall, in like manner, be notified by the clerk of every person appointed and who qualifies as commissioner, and of any vacancy in the office, if not filled at the first court after it occurs; and the superintendent shall keep a regular register of all such settlements and appointments.

Defalcations.

6. For any pecuniary defalcation of a commissioner or commissioners, the board of education in office for the time being may by motion, after ten days notice, recover judgment in the county court, with damages at the rate of twenty per cent. per annum., against him or them and his surety, or their sureties, or against his or their heirs, devisees, and personal representatives, or either of them, the recovery to be for the benefit of the district the rights and interest of which are effected by such pecuniary defalcation.

Compensation.

7. Each commissioner shall receive for his services one dollar a day for every day he is necessarily employed in the discharge of the duties of his office, to be paid out of the county levy; but he shall not be paid for more than twenty days in any one year.

Commissioners
to report annually.

8. It shall be the duty of the commissioners, or of a majority of them, or of their chairman, to make an annual report to the superintendent, on or before the first Monday in December, showing—*First.* The districts in which a common school is properly reported to them, as having been regularly kept for at least three months during the year, and which he or they believe to have been so kept. *Second.* The number of free white children between six and eighteen years of age, in each of such districts. *Third.* The number of months the school has been so kept, with the highest, lowest, and average number of children in attendance during the time. *Fourth.* The amount of the cost of each scholar for three months. *Fifth.* The amount received from the state for the preceding year, and how distributed; and the disposition of the surplus, if any.

Chairmen,
when one may
act for all.

9. When they appoint a chairman they shall notify the superintendent thereof. Any one may act for the whole, during the absence of the other two from the county.

To draw order
on auditor.

10. A majority of them, or their chairman, shall, on or before the tenth day of January in each year, draw an order on the auditor for the distributable share or proportion of the county, out of the school fund, required for the common schools in operation in the county the preceding year; which amount shall be ascertained by the proportion of the number of children of the proper age in the districts where common schools have been established and kept, compared with the remainder of such children in said county. The order, when countersigned by the super-

How amount
ascertained.

intendent, and accompanied by his certificate that the schools, as claimed, have been kept in the county during the preceding year, shall entitle the holder to a warrant on the treasury for the share of the fund to which such county shall be entitled, as above.

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Countersigned
by superintendent.

11. The money so received shall be distributed among the trustees of the different common schools in the county, in proportion to the number of children in each district, towards defraying the expenses of the school for the year. But no school shall receive for that purpose more than one hundred dollars for any one year.

How money
distributed.

12. A commissioner, when he resigns, vacates, is removed, or goes out of office, shall, within ten days thereafter, deliver to the other commissioners, or his successor, any money, property, effects, books, or papers remaining in his hands as commissioner; and for failure herein he shall be fined not more than one hundred dollars.

Commissioner
going out of of-
fice.

13. The commissioners or their chairman shall keep a record of their proceedings, and a detailed account of all moneys received and disbursed by them, or either of them; but no commissioner other than the one receiving money, shall be responsible therefor.

Commissioners
to keep record.

Districts.

§ 7. The school districts in the several counties, as now established, shall remain until altered by the commissioners. The commissioners shall have power to alter or abolish any districts that now are or may hereafter be established, and create new districts. Where it has not already been done, they shall proceed, from time to time, to lay off their county into convenient school districts.

Changing and
forming dis-
tricts.

1. No district shall contain more than one hundred, nor less than twenty free white children, between the ages of six and eighteen years.

Number of
children.

2. The commissioners shall make a detailed report of the bounds of each school district, as laid off or altered by them, and return the same to the office of the county court clerk, where it shall be kept and recorded in a book for that purpose, for public inspection.

Report of
bounds.

3. The commissioners of two adjoining counties, where the division line intersects a neighborhood whose convenience requires it, may lay off a district composed of parts of both counties. The trustees of such district shall report to the commissioners of both counties, and they shall report to the superintendent, and make distribution to the trustees as for a fractional district.

Districts may
include parts of
two counties.

4. Where a city or town establishes and maintains a system of common schools adequate to the teaching of all the children therein applying for instruction, the same shall be deemed one district. Such city or town shall, though its school agent or other officer deputed for that purpose, make its annual report to the commissioners for the sever-

Common
schools in cities
and towns.

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al schools therein, in a similar manner to that required from trustees of a district; and shall, in the proportion which the whole number of children therein between six and eighteen years of age bears to the whole number of children in the county, receive annually from the commissioners its portion of the money due to the county from the school fund. The commissioners shall have no control over such district, but the same shall be governed, in all respects, by the regulations of the local authorities.

Trustees.

Election of
trustees.

§ 8. An election shall be held at the school house of each school district from nine o'clock in the morning till two o'clock in the evening of the first Saturday of April of each year, for the election of three trustees for the district for one year, and until others are elected and qualified. The qualified voters of the district shall be the electors, and any widow having a child between six and eighteen years of age, may also vote in person or by written proxy. A commissioner, a justice of the peace, a constable, or any person selected by a majority of the voters present at the hour for commencing, shall be the judge of the election, give the casting vote in case of a tie, give a certificate of election to the persons elected, and, if not a commissioner, receive one dollar for his services, to be paid out of the county levy. When a new district is formed, an election of trustees to hold the office until the ensuing first of April, and until successors are qualified, may be held, in like manner, at any time or place, ten days notice of the time and place having been first given by a commissioner, by written notice posted at three public places in the district. In case of failure or neglect to elect trustees in any district on the regular day, the election may be held on any other day, after like notice has been given by a commissioner or one of the incumbent trustees.

Trustees to
keep record.

1. The trustees shall keep a record of all elections, and of their proceedings, and a detailed account of all money received and disbursed by them, or either of them; but no trustee other than the one receiving money shall be responsible therefor.

To appoint col-
lector.

2. They may appoint a collector to collect all sums due the teacher, by subscription or otherwise, and allow him reasonable compensation therefor.

Select teachers,
&c.

3. They may select a qualified teacher, remove him at pleasure, and agree with him as to compensation.

Be body cor-
porate.

4. They and their successors shall be a body politic and corporate, with perpetual succession, by the name of the trustees for their school district, and, as such, may take, hold, and dispose of real and personal estate for the maintenance, use, and benefit of the common school of their district, and receive and enforce payments of subscriptions

for the like purpose. Their private seals or scrolls shall stand in lieu of a corporate seal.

5. They may take, by purchase or donation, not exceeding two acres of land for the purpose of erecting thereon a school house, provide for and procure the erection of the same, take care of the house and its enclosures, making all necessary repairs, and provide the necessary furniture and fuel, and recover for any damage that may be done to the property in their charge. The trustees may, with the assent of a majority of those voting at an annual election, change the location of the school house, sell the old site, and use the proceeds towards procuring a new one; or, if the terms of any gift shall so require, the old site shall revert to the donor; or the question may be determined by a vote taken at any other time, ten days notice of the time and place of voting having first been given by advertisements posted at three public places in the district.

6. They, or a majority of them, shall, on or before the 10th day of November in each year, make and deliver to one of the commissioners a report, verified by their affidavits, showing—*First*. The number of free children between the ages of six and eighteen, residing in their district. *Second*. The whole time that a common school has been kept in the district during the year, by a qualified teacher. *Third*. The highest, lowest, and average number of children in attendance during that time. *Fourth*. The cost of tuition for each child for three months, according to the highest number in attendance at any one time. *Fifth*. The amount of money received from the state for the preceding year, and how disposed of. Or, if they cannot verify the statement as to the attendance of the children by their own affidavits, it may be done by the affidavit of the teacher, or any other person acquainted with the facts.

7. The teacher may suspend and the trustees expel a scholar for disorderly or immoral conduct.

8. A trustee, when he resigns, vacates, is removed, or goes out of office, shall, within ten days thereafter, deliver to the other trustees, or his successor, any money, property, books, or papers in his custody as trustee; and for failure herein, he shall be fined not more than one hundred dollars.

9. A commissioner may administer the oath required of a trustee, teacher, or other person, in making the report for a district.

10. One of the trustees shall visit the school at least once in each week, see that the regulations for its government are complied with, and that the teacher performs his duty. They shall perform this duty in rotation.

11. In case of a vacancy in the office of a trustee, or his refusal to act, the other trustees shall appoint another to supply his place till it is filled at a regular election. A trustee in office failing or refusing to perform his duty, shall

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May hold lands

Change location of school house.

To report to commissioners.

Scholar suspended or expelled.

Trustee going out of office.

Report on oath.

Visiting schools.

Vacancy.

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be fined five dollars, on motion of a commissioner, before a justice of the peace.

Trustees to invite indigent children to attend.

12. It shall be the duty of the trustees to invite and encourage all the indigent children in the district to attend the school, and to inform them and their parents that such is their right, for which the state pays, though they themselves may contribute nothing towards paying the expense of the school. The annual report of the trustees shall always show that this duty has been performed.

Teachers.

Examination of teachers.

§ 9. The commissioners may appoint one or more competent persons as examiners of teachers, whose duty it shall be carefully to examine all applicants as to their qualifications to teach the elements of a plain English education. A certificate of qualification from an examiner shall constitute a qualified teacher for the county; or the examination may be made and the certificate granted by a commissioner. The certificate may be permanent, or only for a year, may be revoked by the commissioners, and shall not be granted to an applicant of known bad moral character. The person making the examination may charge the applicant a fee of fifty cents therefor.

Common school defined.

What shall be deemed a common school.

§ 1. The object of this chapter is to carry into effect the intention of the people of Kentucky, as expressed in their constitution, in promoting the establishment, throughout the state, of a system of common schools, which shall be equally accessible to the poor as to the rich. It is therefore declared, that every school which is put under the control of trustees and commissioners pursuant hereto, which has been actually kept for three months during the year, by a qualified teacher, and at which every free white child in the district, between the ages of six and eighteen years, has had the privilege of attending, whether contributing towards defraying its expense or not, and none other, shall be deemed a "common school," within the meaning of this chapter, or entitled to any contribution out of the school fund.

May be select school for part of year.

§ 11. Nothing in the last section shall preclude a school which is kept for a part of a year as a common school, from being kept for the balance of the year as a select or private school, to which none but contributors may have the privilege of sending pupils. That the commissioners' books be altered by the auditor to conform to the requirements of this chapter.

Seminaries.

County courts to hold land in trust for seminaries.

§ 12. When five or more persons shall obtain a right to not more than two acres of land, for the purpose of establishing a seminary or neighborhood school house, the same

may be conveyed to the county court of the county, who shall hold it forever in trust for the uses and purposes of a seminary or school.

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1. The conveyance shall designate five trustees, who shall hold their offices for the term of two years, or until their successors are appointed.

Trustees.

2. On the second Monday of January, of the second year after the conveyance, and on the same day every second year thereafter, an election of five trustees shall be made by a meeting of the contributors towards procuring the ground and erecting the school house, and of the parents or guardians of the children then in attendance, or who may have attended the school at any time during the preceding year. The meeting to be held at the school house, or at some convenient place in the neighborhood, to be designated by a magistrate of the district, between the hours of nine and twelve o'clock in the morning. The right of voting shall only be in the contributor himself, during his life.

Election of trustees.

3. The trustees so elected shall hold office for two years, or until successors are elected.

Term of office.

4. Any vacancy occasioned by death, resignation, removal from the county, or refusal to serve, shall be filled by the other trustees for the balance of the term.

§ 13. The meeting of patrons and contributors may, from time to time, establish by-laws for the government of the trustees and the school or seminary, and alter or repeal the same.

By-laws.

§ 14. Subject to the by-laws, the trustees shall have full control and management of the property, and may sue for any trespass thereon or injury thereto, in their own names, and shall also have, in like manner, the control and management of the school.

Trustees to control.

§ 15. The trustees may receive donations or subscriptions for the benefit of the school, enforce the latter by suit, or assign the same, in whole or in part, and transfer the right of action therefor to the assignee.

Donations and subscriptions.

§ 16. The trustees shall keep a record of their own proceedings, and of those of any meeting of the contributors and patrons.

Record.

CHAPTER XXXVI.

SALARIES.

§ 1. That the officers hereafter named shall respectively receive an annual salary, to be paid out of the treasury quarter yearly, as follows:

Paid quarterly.

The governor, twenty-five hundred dollars;

Amount.

The secretary of state, seven hundred and fifty dollars;

The attorney general, three hundred dollars;

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The treasurer, seventeen hundred dollars ;

The librarian, keeper of the state house and public grounds, four hundred dollars ;

The register of the land office, twelve hundred and fifty dollars ;

The adjutant general, one hundred and fifty dollars ;

The quartermaster general, one hundred dollars ;

The clerk of the secretary of state, six hundred and sixty-six dollars ;

The first clerk in the land office, six hundred dollars ;

The second clerk in the land office, five hundred dollars ;

The judges of the court of appeals, each, fifteen hundred dollars ;

The judges of circuit courts, each, fourteen hundred dollars.

The chancellor of the Louisville chancery court, fifteen hundred dollars.

The attorneys for the commonwealth, each, three hundred dollars ;

The superintendent of public instruction, seven hundred and fifty dollars ;

The president of the board of internal improvement, one thousand dollars.

Officers of general assembly.

§ 2. The officers of the general assembly shall, respectively, receive a daily compensation from the treasury, as follows :

The clerks of the senate and house of representatives, each, seven dollars ;

The second clerks of the two houses, each, six dollars ;

The door-keepers and sergeants-at-arms of the two houses, each, three dollars.

CHAPTER XXXVII.

CHANGE OF VENUE.

In penal cases.

When granted in penal and criminal cases.

§ 1. When a criminal or penal prosecution is pending in any court, the judge thereof may, upon the application of the defendant, order the trial to be had in some other adjoining county, to which there is no valid objection, if it appears that the defendant cannot have a fair and impartial trial in the county where the proceeding is pending.

How application made.

1. Such application must be made by petition in writing, verified by the affidavit of the defendant, and two other credible persons not of kin to, nor of counsel for the defendant ; and the attorney for the commonwealth, or, in his absence from the county, the attorney for the county, must have reasonable notice thereof in writing.

When made.

2. The application must be made and determined during the sitting of the court, unless the making it before the

meeting of the court will expedite the trial in the county to which it is to be removed, in which case the application and order may be made in vacation.

§ 2. If the applicant is in close custody, the order for the change of venue shall be accompanied by an order for his removal by the sheriff or jailer, with such sufficient guard as the judge may direct, and his delivery to the jailer of the county where the trial is to be had.

§ 3. If the applicant is under recognizance for his appearance, or if he is admitted to bail, he shall, before the order is granted, give sufficient bail for his appearance at the proper court, or be surrendered into custody.

§ 4. The court or judge may also take recognizances from the witnesses for their appearance at the proper court, and make such orders as may be deemed necessary to a fair, full, and speedy trial upon the merits.

§ 5. When the prosecution is so removed, the clerk of the court shall immediately transmit the original papers, together with a transcript of the record pertaining thereto, to the clerk of the court to which the removal is ordered, after making out and retaining a copy of such original papers. The transfer shall be made by the clerk, his deputy, or some discreet person, for whom the clerk shall be responsible. The applicant shall pay the clerk for making such copy, and also five cents a mile for necessary travel, going and returning, in the making such transfer, for which he may issue his fee bill as in other cases.

§ 6. If one or some only of several defendants charged in the same indictment apply for or be allowed the change of venue, the original indictment shall be retained, and a certified copy sent, which shall serve in lieu of the original.

§ 7. The court to which the removal is so made shall have the same jurisdiction to dispose of the case as was held by that from which it was removed; and if the indictment be quashed, or a *nolle prosequi* entered, a new indictment may be found from time to time by a grand jury of the county to which the removal is made, and the same prosecuted until the case is finally disposed of as though the offense had been committed in that county.

§ 8. Not more than one change of venue shall be allowed to any person in the same case.

§ 9. A slave charged with felony may obtain the change of venue herein allowed, upon the application of his master, or upon the application of any one who will become responsible for the costs of removal.

§ 10. If a defendant to any criminal or penal prosecution makes and files with the clerk an affidavit stating that he verily believes the judge of the court where the same is pending will not afford him a fair or impartial trial, or will not fairly and impartially decide his application for a

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When applicant in close custody.

When under recognizance, &c.

Witnesses recognized.

Clerk to transmit papers.

Mileage paid by applicant.

One of several defendants.

Jurisdiction of the court to which removed.

Only one change allowed.

Slave.

Exception to judge; proceedings thereon.

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change of venue, the substitute for the judge theretofore elected by the members of the bar, shall preside in lieu of the judge at his trial, or on the hearing of his application for a change of venue; or if there be no such substitute one shall be elected for that purpose; if he make and file an affidavit taking the same exception to the substitute, the clerk shall select three discreet, impartial housekeepers, who shall be sworn truly to try the question of such substitute's impartiality. If they, or a majority of them, decide that he is not impartial, the clerk shall immediately cause another substitute to be elected by the members of the bar for the trial of that case. The person so elected shall preside, and the defendant shall be allowed no exception against him. If the general or special substitute for a judge resign or refuse to act before the final disposition of any such criminal case, another shall be immediately elected in his place.

In civil cases.

Change of venue in civil suits.

§ 11. If a party to any civil cause triable by a jury, in a circuit or chancery court, verily believes that he cannot have a fair trial in the county where it is pending, owing to the undue influence therein of his adversary, or to the odium which attends himself or his cause of action or defense, he may, by petition in writing, verified by his affidavit, obtain an order from the judge of the court in which it is pending, for the removal of the cause to the circuit court of some adjacent county.

Notice of application.

1. The adverse party or his attorney must have reasonable notice, in writing, of the time and place of making the application.

Order for removal.

2. If made out of court, the order for removal and petition must be lodged with the clerk within five days.

To what county.

3. The removal shall be to that county in the circuit, or to an adjoining county in another circuit which will best suit the convenience of the parties and their witnesses, in the opinion of the judge making the order, to which there is no valid objection.

May be upon conditions.

4. The order may be made subject to such equitable terms and conditions as safety to the rights of the parties may seem to require, and the judge in his discretion may prescribe.

Void unless expense paid.

5. The order shall be void unless the party obtaining it does, within ten days, pay to the clerk a sum sufficient to cover the expense of travel in making the removal.

Duty of clerk.

§ 12. Immediately on the making or receipt of the order, the clerk shall make out a transcript of the record pertaining to the cause, which, with the original papers therein, he shall, as soon as practicable, carry or send by some discreet person to the clerk of the court to which the cause is removed, the former being responsible for the conduct of the person so employed.

§ 13. If the papers are transferred ten days before the first day of the next term of the court to which the cause is removed, it shall stand for trial at that term; otherwise, not until the term next succeeding.

§ 14. The parties to any suit may, by consent, have an order, in or out of court, for its removal to any other court.

§ 15. The court to which a cause is removed shall have the same power as to its trial and final disposition as that from which it came, and no exception to the original jurisdiction of the latter shall be allowed in favor of the party obtaining the removal.

§ 16. There shall not be more than one order of removal of the same cause, at the instance of the same party.

§ 17. The clerk shall be allowed five cents a mile, going and returning, for traveling expenses in making the removal.

§ 18. The party upon whom notice has been served of an intended application for an order of removal, shall be allowed three cents a mile for traveling expenses, going and returning, if he attend and the applicant does not, or if the latter fails in his application; the payment of which may be coerced by execution or attachment from the court.

§ 19. At the appearance term of a civil suit, if a party desires a change of venue, he shall state the facts and reasons therefor on oath, which shall be good cause for a continuance, if deemed sufficient by the court.

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When to be tried.

Removal by consent.

Power of court to which removed.

Only one removal allowed.

Clerk's mileage.

Party's mileage.

Application at appearance term.

CHAPTER XXXVIII.

FERRIES.

§ 1. The several county courts shall have jurisdiction to establish ferries and grant ferry privileges upon any river or stream in or adjoining their respective counties, and for regulating, revoking, and controlling the same.

§ 2. A writ of error or appeal from any order concerning a ferry, in favor of any one interested, shall lie to the circuit court of the county, and thence to the court of appeals, both of which shall have jurisdiction of law and fact; but the court of appeals of only such facts as may be certified from the circuit court. The appeal to be taken at the time of making the order or during the term, and the writ of error from the circuit court to be sued within three years from the making of the order, and from the court of appeals within one year from the making of the order in the circuit court.

§ 3. No ferry right shall be hereafter granted for a longer period than twenty years.

§ 4. A ferry shall be established only at the instance and for the benefit of the owner of the land where it is located,

County court may establish.

Writ of error and appeals.

Limited to 20 years.

At whose instance ferries established.

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Notice of ap-
plication.

Where appli-
cant owns only
one side of
stream, writ of
ad quod dam-
num.

When the right
may be granted
to another than
the owner.

Applicant to
give surety.

Transporting
slaves.

or of some one who has obtained from the owner the privilege of using the same for that purpose.

§ 5. No application to establish a ferry shall be heard, unless notice of the application shall have been posted at the court house door of the county on the first day of the next preceding term of the court.

§ 6. If the applicant owns or has right to use the land proposed as the site of the ferry, only on one side of the stream, and the landing on the opposite side be not at an established public highway, the court, before granting the ferry right, shall cause a writ of *ad quod damnum* to issue, to ascertain the damage the owner of the land on the opposite side will sustain by establishing the necessary right of way over his land, not more than forty feet wide, for the use of such ferry, he having had reasonable notice of the intended application for such writ. If the court do not approve such assessment, it shall order a new writ to issue, but if it approve the same, it shall, upon payment into court, for the benefit of the owner, of the amount assessed, condemn such right of way for the public use as a highway. If the land over which the right of way is sought be in another county, the writ of *ad quod damnum* shall be directed to the sheriff of that county. Nothing herein shall be construed to authorize the opening, by compulsion, of a road over any land which is prohibited by the chapter on roads.

§ 7. If no owner of the land on either side of the stream over which a public highway passes, will obtain the ferry right, or if, after having obtained the right, he abandons or fails to keep it up according to law, the court may, after reasonable notice, grant the right to another, and when necessary to the proper exercise of the right by such other, cause to be condemned the fee simple right, or the use for not more than twenty years, if the owner so elect, of not more than two acres of ground adjoining the landing, together with the use, for ferry purposes, of any adjacent unenclosed bank of the stream. But before the final grant of the right, the damage to the owner of the land shall be first ascertained under a writ of *ad quod damnum*, and the amount thereof paid into court for the use of the owner.

§ 8. Before a ferry right is granted, the applicant shall, with sufficient surety, give a covenant to the commonwealth that he will keep the ferry according to law, and pay all damages that any one may sustain by reason of his failure to do so, or by reason of any neglect or misconduct of those managing the ferry, or by reason of the insufficiency of any boat employed thereat.

The covenant of the owner of a ferry on the Ohio river shall, in addition, promise to pay the owner of any slave all damage he may sustain by reason of the illegally trans-

porting or attempting to transport the slave across that river.

1. The surety to be taken on the grant of a ferry right on the Ohio river, shall be good for at least three thousand dollars, and any where else for at least five hundred dollars.

2. Every owner of a ferry who shall heretofore have given bond, shall enter into such covenant with sufficient surety, within six months after this act takes effect; and upon his failure to do so after summons, his ferry right shall be revoked.

3. Every such covenant shall be renewed once in five years, and oftener if required by the court; and upon failure to do so after summons, the ferry right shall be revoked.

4. Any person aggrieved may sue, at his own costs, and for his own benefit, on such covenant, in the name of the commonwealth.

5. When sale is made of a ferry right, or lease thereof, it must be with leave of the court, and the purchaser or lessee must execute covenant, with sufficient surety, in lieu of the former covenant. A devisee or heir of a fee simple or freehold estate in a ferry, if of full age, must also, in like manner, execute, within one year after probate or descent, a new covenant, and if under age it must be executed by his guardian for the infant; if the estate be for a term of years, the personal representative must, within one year after administration, sell the right with the assent of the court, and the purchaser give such new covenant. A non-resident of a ferry right hereafter granted shall sell the same to a resident citizen of this state within a year after his removal or the accrual of his right, with leave of the court, and the purchaser give such new covenant.

Upon failure to comply with any requisition of this subsection, the court shall revoke the grant, the party having been first summoned, or, if a non-resident, warned by an order posted at the court house door, on a court day of a previous term, and by publication in some newspaper printed in the county, if any such there be.

§ 9. At the time of making the grant of a ferry right, the court shall prescribe the number and kind of boats to be kept, and the number of hands employed, and how propelled—whether by steam, horse power, or otherwise—and may, from time to time, once in every year thereafter, change the same, after notice to the grantee. Where the rapidity of the current does not require the boat to be propelled by poles, it shall prescribe that the ferry boat shall have a substantial railing on its sides of at least two feet high.

§ 10. If the grantee shall not, within six months after the grant, put and keep the required boats and hands in use, the court shall, after notice to him, revoke his grant.

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Amount of surety.

Present owner to give covenant described.

To be renewed every five years.

Suits thereon.

Sale of right to be made with leave of court.

Purchaser, heir, &c. to give covenant.

Grant revoked for failure.

Court to prescribe number & kind of boats, &c.

Grant revoked for failure to comply.

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Failure for one
year deemed
abandonment.

Sale, leasing,
&c., when
deemed chan-
gement.

Tolls.

When changed.

Penalty for
over-charging.

Other persons
not to transport
within one mile.

Owner or keep-
er liable for not
transporting im-
mediately.

New ferries,
within what
distances, &c.

§ 11. A failure for one year to keep up any ferry heretofore or hereafter granted, in the manner required, shall be deemed an abandonment of the grant, and, upon notice to the owner, it shall be revoked.

§ 12. Any sale or leasing of a ferry right hereafter made to or contract not to use it, made with the owner of a ferry established within a mile thereof, or any tenant or partner of his or with any owner, tenant or partner of a ferry established on the other side of the Ohio or Mississippi, shall be deemed and treated as an abandonment of such right, for which the right shall, in like manner, be revoked.

§ 13. The court shall, also, at the time of making the grant, fix the rate of tolls to be charged at the ferry, which shall be in the following proportions: For every heavy four wheeled wagon, carriage, or coach, and driver, the same as for six horses; for every light or open four wheeled carriage or light wagon and driver, the same as for four horses; for every two wheeled carriage or cart and driver, the same as for two horses; for every hogshead of tobacco not in a wagon or cart, the same as for one horse; and for every head of neat cattle, the same as for a horse; for every sheep, goat, hog, or lamb, one-fifth as much as for a horse.

1. The rates may be changed from time to time, once in every year; but no reduction shall be made until after notice to the owner.

2. If any ferry-keeper, or his servant or agent, shall demand or take from any person a greater sum for ferriage than is allowed by the court, he and the owner shall forfeit the ferriage demanded or received to the person over-charged, and four dollars for every such offense, recoverable before a justice of the peace of the county.

§ 14. Any one who shall, for reward, transport any person or thing across a water course from or to a point within one mile of an established ferry, unless it be the owner of an established ferry on the other side of the Ohio or Mississippi river, so transporting to such point on this side, and any owner, or lessee or servant of the owner of a ferry on the other side of either of those rivers, who shall so transport from this side, without reward, shall forfeit and pay to the owner of the nearest ferry the sum of sixteen dollars for every such offense, recoverable before a justice of the peace.

§ 15. Any person aggrieved by not being put across immediately at any ferry, without sufficient reasonable excuse therefor, may recover from the owner or keeper four dollars, before any justice, for every such offense.

§ 16. No ferry shall be established on the Ohio river within less than a mile and a half, nor upon any other stream within less than a mile of the place, in a straight line, where any existing ferry was pre-established—unless

it be in a town or city, or where an impassable stream intervenes.

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1. No new ferry shall be so granted within a city or town, unless those established therein cannot properly do all the business, or unless public convenience greatly requires a new ferry at a site not within four hundred yards of that of any other.

2. No ferry boat shall take in or land any passenger or thing within such distances of another ferry, under the penalty of fifteen dollars for every offense, to be recovered before a justice, against the owner or keeper, and by the owner of such other ferry.

§ 17. If a slave be put across the Ohio river in a boat attached to any ferry established thereon, the owner and keeper of the ferry shall, in addition to his liability to the owner of the slave for any damage sustained thereby, pay him two hundred dollars, unless the owner or his agent accompany the slave, or has given his written consent thereto; and if the slave be so put across the river with the knowledge or assent of the owner or keeper of the ferry, they shall jointly and severally forfeit and pay the sum of one thousand dollars, to be recovered by any person who will prosecute for the same, by suit or indictment.

Liability of owners, &c., for transporting slaves.

§ 18. Any person not a ferry keeper or owner who shall put a slave across the Ohio river, contrary to the last section, or aid in so doing, shall incur the liability and penalty therein named for so doing.

Of other person.

§ 19. The better to secure the penalties herein given against the owner or keeper of a ferry established on the other side of the Ohio river, the justice issuing the warrant may order any boat belonging to such ferry to be attached, treat the levy of the attachment as a service on the owner, and if the penalty adjudged, with the costs, be not paid, order the boat to be sold in satisfaction of the same.

Boat may be attached to secure penalty.

§ 20. An appeal from all penalties imposed under this chapter by a justice shall lie to the county court, if prayed within twenty days, and bond with good surety be given to satisfy the appellee, if the appeal be not successfully prosecuted.

Appeal.

§ 21. When an appeal or writ of error from an order granting or revoking a ferry right is pending before the circuit court, it shall be the duty of that court to see that all proper parties interested are brought before the court.

Duty of court.

§ 22. Every owner of a ferry shall have convenient wharfs, or other firm and dry landings for the use of his ferry, and always kept in repair; and for a failure for two months to perform this duty in this particular, after monition from the court, his right shall be revoked; and besides, he shall at all times be liable to any one damaged for the want of such firm landing.

Wharfs and landings.

§ 28. Ferry keepers and their necessary hands actually

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Keepers, &c.,
exempt from ju-
ries, &c., &c.

Louisville char-
ter.

employed in keeping the ferry, shall be exempt from serving on juries, from militia musters, from patrol duty, and from working on the public highways.

§ 24. So much of the charter of the city of Louisville as is inconsistent with this chapter, is repealed.

CHAPTER XXXIX.

AUDITOR.

ARTICLE I.

Qualifications.

§ 1. No person shall be elected or appointed auditor of public accounts unless he be a citizen of the United States, at least twenty-four years of age, nor unless he has resided within the state of Kentucky two years next preceding his election or appointment.

When to enter upon duties.

§ 2. The auditor shall enter upon the duties of his office on the first Monday in January next succeeding his election or appointment; he shall, on or before that day, take the oaths of office, and execute bond to the commonwealth with surety worth at the time, jointly or separately, \$100,000, to be approved by the governor, and filed in the office of secretary of state, for the faithful discharge of the duties of his office; upon which, for any breach thereof, suit may be instituted from time to time, and recovery had to the extent of the damages sustained by the commonwealth or by others. If any appointment of auditor be made by the governor under the 26th section of the 8th article of the constitution, he shall, upon the execution of bond and taking the oaths of office, forthwith enter on the discharge of the duties of his office.

Bond and oath.

Salary.

Assistant,
clerks, &c.

§ 3. The auditor shall receive an annual salary of \$2,000, payable quarterly at the treasury, upon the requisition of the governor. He shall have power to appoint one assistant, whose salary shall be nine hundred dollars per annum, and the further sum of one thousand nine hundred dollars per annum is hereby appropriated to enable the auditor to appoint and pay such clerks as he may deem necessary for the discharge of the business of his office; also, one hundred dollars per annum as compensation for a porter to the treasurer and auditor, which several sums the auditor is authorized to draw, quarterly, from the treasury.

Terms of of-
fice.Must be citi-
zen.

Oath and bond.

§ 4. The term of office of assistant auditor and clerks shall be four years. No one shall be appointed to said offices who is not a citizen of the United States, and resided in the state of Kentucky two years. They shall severally take the oaths of office, and may be required by the auditor to execute to him bond, with surety, for the faithful discharge of the duties of the office. They may be removed from office by the auditor for neglect of duty, malfeasance in office, incompetency, intemperance, idleness, or other

good cause. The auditor and his sureties shall be liable on their bond for the acts of the assistant auditor and clerks of his office.

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§ 5. The auditor and his assistant shall reside and keep his office at the seat of government. Upon his resignation or the expiration of his term of office, he shall, with the aid of the secretary of state, make an inventory of the books, stationery, and implements belonging to the office, file the same in the office of secretary of state, and deliver the books, furniture, stationery, and implements of office over to his successor.

Office.

Inventory of books, &c., at close of term.

§ 6. If the auditor be absent, or for any cause is rendered incapable of performing the duties of his office, or if a vacancy in the office of auditor occurs, the assistant auditor shall perform the duties of auditor until the vacancy be filled, the auditor returns, or is restored to his official duties.

Assistant auditor.

§ 7. A warrant of the auditor upon the treasury shall state upon its face the date, amount, and the name of the person to whom payable, and on what account, and out of what fund to be paid; and shall not be issued unless the money to pay the same has been appropriated by law.

Warrant.

§ 8. The auditor shall keep a separate account of all taxes collected; so as to exhibit the amount collected under each law. He shall keep a correct list of all balances due by the government to individuals, and by individuals to the commonwealth, and report the same to the legislature at every regular session thereof; and he shall also report to the general assembly, when required, all and any information connected with the business of his office.

Accounts of taxes, balances due, &c.

§ 9. The auditor shall keep an account of all claims of debt or credit which may exist between the general government and this state, between this state and any other state. He shall keep an account between the commonwealth and all her civil officers whose salary or wages are payable out of the public treasury; the pay and compensation to members of the legislature and the officers thereof; such pay and allowance to be kept in separate books by the clerk of each house, certified by him, and deposited with the auditor.

Accounts with general government and other states.

§ 10. He shall audit and enter in account all other demands payable at the treasury, all accounts of the collection of the revenue or other tax, or public money, and of all public debts. All public officers or public debtors who fail to render their accounts at the proper time, or to pay the money in their hands, due the commonwealth, into the public treasury, the auditor shall report to the attorney general, and cause proceedings to be instituted against them, and faithfully prosecuted to enforce the performance of such duty and the payment of the money into the treasury. If, upon any such judicial procedure, it shall appear

Demands payable at treasury Delinquents reported.

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that nothing is due the commonwealth, the defendant shall, nevertheless, pay the cost.

Auditor may
require information
on oath.

§ 11. The auditor shall have power to require information, on oath, from any person, party, or privy touching any matter relative to any account which he is required to state, audit, or settle, and may administer the oath himself, or have it done by any officer authorized to administer an oath. If a person, when required by the auditor to be sworn for such purpose, shall refuse, he shall be guilty of a misdemeanor, and fined, upon indictment and conviction thereof, not exceeding one hundred dollars, at the discretion of the jury.

To call upon
attorney general
for advice.

§ 12. The auditor shall call upon the attorney general for advice and counsel, whenever he shall deem it necessary, upon all questions of doubt or difficulty connected with his official duties.

Grant permits
to treasurer to
receive money.

§ 13. He shall grant written permits or authority to the treasurer to receive money from public officers or other persons, due to the commonwealth, stating the person, the amount to be paid in, and on what account paid, and charge the same to the treasurer, in an appropriate book, under its proper head.

Keep accounts
of moneys paid
into treasury,
&c.

§ 14. He shall so keep the accounts that they will truly and clearly exhibit the amount of all moneys paid into the treasury, by whom, and for what account paid; and also, in like manner, exhibit the amount of public expenditures, and each item therefor. He shall keep an accurate account in books of all warrants and certificates by him drawn or issued, showing in due succession the date, number, and amount of the warrant, for what and to whom issued.

Furnish information
to governor.

§ 15. The auditor shall, when required, furnish the governor any information in his power concerning the condition of the treasury, the state of the public finances, and such other information concerning the business of his office which the good of the public service may demand; and the books and papers of his office shall at all times be subject to the inspection of the governor.

Report to general
assembly.

§ 16. The auditor, on or before the sixth day of every regular session of the general assembly, shall faithfully report the annual income and expenses of the government for the two years preceding the tenth of October, of each year, in such a manner as to exhibit the sources of the income, and objects of expenditure, in detail and in the aggregate; and also an estimate of the revenue and expenditures for each of the succeeding two years, commencing and ending the fiscal year on the 10th day of October. He shall report all deficiencies of revenue to meet the expenditures of government; and also a statement of all sums due the commonwealth, when, for what, and from whom due.

§ 17. The auditor, in numbering and dating his warrants, shall begin the 1st day of January and end the 31st of December, inclusive, in each year, so as to exhibit the number, date, and amount of each warrant, for what issued, and to whom payable. He shall transfer the entries of such warrants into the book of general accounts, under separate and distinct heads, exhibiting the total amount of issues for each department of the public service.

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Warrants to be numbered from 1st January to 31st December.

§ 18. Warrants for the quarter salary due to public officers shall not be issued before the last days of March, June, September, and December. A warrant may be issued to any officer of the government for the portion of salary due for a fractional part of a quarter in which the officer shall have served.

Warrants for salary.

§ 19. The amount of payment of taxes into the public treasury, and the expenditures thereof, shall be kept so as to exhibit truly the amount received from and expended in each county.

Taxes, &c., of each county.

§ 20. A book of transfers of non-resident's lands shall be provided by the auditor. A non-resident who may have conveyed his lands which have been entered with the auditor for taxation, shall have the right to transfer the lands so conveyed, and have the same charged for taxes in the name of the alienee, upon the production of the legal evidence of conveyance. A fee of ten cents shall be paid the auditor by the person requiring the transfer for each separate tract transferred, which shall be paid into the treasury by the auditor at the end of each fiscal year.

Transfers of non-resident's lands

§ 21. A book shall be kept by the auditor, in which shall be entered all receipts by the treasurer for money paid into the treasury within each year.

Treasurer's receipts.

§ 22. The auditor shall provide, by contract, and furnish all the paper necessary for the public printing, for the use of the public offices at the seat of government, and for the legislature, including ink, wafers, and all other stationery.

Paper for public printer and stationery.

1. He may advertise for contracts to supply the above articles, or may purchase them at private contract, as he shall deem most advantageous to the interest of the state.

2. Before he receives any paper under a public or private contract, he shall submit the same to the public printer, or such other competent judges as he may deem necessary, for their approval.

3. He shall, in like manner, contract for the binding of journals, acts, and legislative reports, at the lowest price for which they can be done. He shall communicate to the legislature, at its regular sessions, copies of the contracts above, the amount and cost of paper and binding for the two fiscal years next preceding the report.

Binding.

4. He shall have a sufficient number of the reports of the auditor, treasurer, and president of the board of inter-

Reports, &c.

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nal improvement printed, for the use of the legislature and such public officers as are required to be furnished with them.

Public printer's account.

5. The auditor shall examine and settle the accounts of the public printer once in each year, and report the result to the legislature.

ARTICLE II.

Sinking Fund, Internal Improvement, and School Fund—duties of auditor in relation thereto.

Auditor to keep separate accounts.

§ 1. The auditor shall keep separate accounts of all money paid into the treasury, and all disbursements of the same on account of internal improvements, the sinking fund, and the common school fund, and see that no part of the ordinary revenue, not specifically devoted to said funds, shall be drawn from the treasury, and applied to the one or the other.

Accounts with banks.

§ 2. Accounts shall be kept by the auditor with all of the banks and other monied institutions required by law to pay tax or money into the treasury.

With turnpike companies.

§ 3. Accounts shall be kept with all turnpike road companies, railroads, and other incorporations or bodies politic, in which the state may own stock, or which are required to pay a tax or money to the commonwealth.

Auditor and treasurer to make monthly settlements.

§ 4. The auditor and treasurer shall, once in each month, make a settlement of the receipts and disbursements of the money at the treasury, of every description, under appropriate heads, and file the same with the secretary of state, whose duty it shall be to report them to the general assembly within the first ten days of each regular session. And the auditor shall, once in each month, ascertain whether the money on hand in the treasury agrees with the balance shown by the books of the treasurer. The result of such investigation he shall immediately report to the governor.

List of acts appended to report.

§ 5. The auditor shall append to the statement made in the month of December in each year, to accompany his biennial report, a list of the acts of the general assembly under which he has drawn his warrants for the preceding twelve months.

Paying interest upon state bonds.

§ 6. Before the auditor issues a warrant for the interest due upon any bond of this state, made payable at the treasury, the bond, with the coupon due, shall be produced to him. The number, date, amount, and payee of said bond shall be entered in a well bound book, provided for that purpose, the amount of the interest due, and to whom and when paid. The coupon shall be detached from the bond, and a receipt taken from the person to whom he has paid the interest, and to whom he has issued the warrant, specifying the time for which the interest was paid; and he shall indorse on the bond the time to which the interest

has been paid; which receipt he shall preserve. Monthly reports of all such payments, exhibiting the amount paid, when and to whom paid, shall be made to the secretary of state, who shall record the same in a well bound book, and file and preserve said reports; and, within the first twelve days of each regular session, report the amount of each monthly payment to the general assembly.

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CHAPTER XL.

COUNTY LEVY.

ARTICLE I.

§ 1. All male persons over twenty-one years of age, and all slaves over sixteen years of age, shall be tithable and chargeable for levies imposed for county purposes. The county court authorized to impose levies may exempt persons on account of age, infirmity, or other charitable reasons, from the payment of the county levy.

Who tithable.

§ 2. The assessor of tax in each county, at the time he assesses the taxable estate, shall demand from each person being tithable a written list of such persons as are tithable in his family, including slaves owned by him, on the tenth of January preceding; which list the assessor shall return to the office of the county court at the same time he returns his assessment of the taxable estate in his county.

Assessor to demand list of tithables.

§ 3. The master of a family or owner of slaves who are tithable, when called upon for that purpose by the assessor, in the mode and manner prescribed for calling upon the owner of estate to list the same for taxation, shall give in, upon oath, to the assessor, a list of all the tithables owned by him within this state, including himself, on the tenth day of January preceding. If he fail and refuse, when legally called upon to give in such list, or if he give a false and fraudulent list, he shall, upon conviction, be fined in a sum not exceeding one hundred dollars, and subjected to the payment of three times the levy imposed upon a tithable within the county, to be recovered in the same mode prescribed for the recovery of fines against persons who fail and refuse to list their property for taxation, or who give in a false and fraudulent list of taxable estate. It shall be the duty of the assessor to report all such delinquents to the county court, and also to make, from the best evidence he can obtain, a true list of all tithables owned by such delinquents, and report the same to the court.

List to be given on oath.

Penalty for refusing or giving false list.

§ 4. Any person who has, from sickness or absence, failed to render to the assessor a list of his tithables at the proper time, may return said list at any time to the county court before judgment against him for such failure, and, by the payment of all costs, be exempted from the fine imposed.

Failure from sickness or absence.

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The assessor shall not return any person delinquent under this chapter until he has called at the residence of the party, or made to him a personal application for his list.

Assessor to give in his own list to clerk.

§ 5. The assessor, at the time he returns his book to the clerk of the county court, shall, upon oath, give in to the clerk a list of all tithables owned by him, including himself. If he fail or refuse to give in such list, or give a false or fraudulent list, he shall be subjected to the same penalties and tax prescribed against like delinquents in the third section of this article.

ARTICLE II.

Mode of collecting the county levy.

Levy not to exceed \$1.50 per tithable.

§ 1. The county levy shall not exceed one dollar and fifty cents on each tithable, in any one year. If a sum be due by the county greater than can be met by a levy limited to one dollar and fifty cents in any year, the same shall be divided into installments, and payment provided for in the subsequent annual county levies.

What shall be stated on order book.

§ 2. At the time when the county court impose the levy, the claims against, and the expenses incurred by said county, under the authority of any law, and legally chargeable upon the county levy, to whom and for what due, shall be stated on the order book of said court; also, the amount of all moneys or credits on hand, or due or owing the county, applicable to the payment of the demands against the county, shall be ascertained and stated on the record. For any balance due by the county thus ascertained, the court shall assess on the tithables, equally, a sum sufficient to pay such balance, including the expenses of collection, subject to the limitations in the first section of this article. The court shall specify in its orders the amount to be paid to each individual county creditor, and out of what fund to be paid.

Sheriff to collect; to give bond with surety.

§ 3. The sheriff, by virtue of his office, shall be collector of the county levy, and he shall, at the term of the court when the county levy is imposed, or at any subsequent term of said court, before he proceeds to collect the county levy, execute bond, payable to the commonwealth of Kentucky, with one or more sureties, whose aggregate estate, after the payment of all their debts and liabilities, shall be equal to double the amount of the whole levy ordered to be collected, in the form substantially as follows:

Form of bond.

We, A. B., sheriff of county, and C. D., his surety, jointly and severally bind and oblige ourselves to the commonwealth of Kentucky, that the said A. B., as sheriff, shall well and truly collect, account for, and pay over, to the person entitled to receive the same, according to law, the county levy and public dues of the county of , for the year ; and that he shall, when called upon by the county court, settle his accounts, and pay over the amount,

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if any, of public money in his hands belonging to said county; and that the said A. B. shall, in all things, well and truly demean himself, and perform the duties of collector of the county levy of said county. Witness our signatures this day of

Which bond may be sued upon in the name of the commonwealth, for the use and at the costs of any person aggrieved by a violation of the same.

Suits thereon.

§ 4. If the sheriff shall fail or refuse to give such bond, when required by the county court, he shall forfeit and vacate his office of sheriff; and in such case, the county court may appoint a collector of the county levy, who shall give bond with surety, in such form, suited to the occasion, as is prescribed in the preceding section, and whose powers and liabilities shall be the same as those of the sheriff, acting as such.

When sheriff fails or refuses to give bond.

§ 5. The clerk of the county court shall, within ten days after the execution of bond by the sheriff or collector, as required in this article, deliver to such sheriff or collector a list of the persons chargeable with the payment of county levy, and the sum to be paid by each; a list of the sums due, and from whom due, to the county; and also a list of persons to whom the county is indebted, and the amount to be paid by the sheriff or collector to each one. The sheriff or collector shall immediately proceed to collect from the persons chargeable with county levy, or otherwise indebted, the amount due, with the same powers, duties, responsibilities, and for the same commissions given and allowed the collectors of the public revenue; and shall pay the same to the county creditors, according to their respective demands, and in obedience to the requirements of law.

Clerk to furnish tax list and list of creditors

§ 6. If the sheriff or collector of county levy shall fail to pay or satisfy the county creditors whose names are upon the list furnished him by the clerk, the claims due them respectively on or before the first day of October in each year, if demanded of him, he and his sureties, their heirs, devisees, and personal representatives, shall be jointly and severally liable to such county creditor for his demand, with ten per centum upon the amount due; which sum may be recovered by a suit on the bond in the circuit court, or by motion in the county court. Notice in writing of such motion shall be given to each party sued, and served at least ten days before the day of trial; and if not fully served, other notices shall be issued by the clerk to the next term, and the motion continued from court to court, until the parties originally named in the return shall all be before the court, unless the plaintiff abates as to those upon whom the notice is not served.

Sheriff failing to pay creditors.

Motion.

Notice.

The like remedies are given to the county court when the sheriff or collector shall refuse to settle his accounts or pay over any money in his hands belonging to the county;

Sheriff refusing to settle accounts.

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and the county court shall be a good and sufficient relator in any suit or motion upon the bond of the sheriff, or collector of the county levy, or any other money collected by a sheriff or other officer in the course of his official duties.

Clerk failing
in duty.

§ 7. If the clerk fail to perform the duty required of him in the fifth section of this article, he shall forfeit and pay, for the use of the county, the sum of thirty dollars for each offense, to be recovered by a presentment in a circuit court of the county having jurisdiction of the offense, or by suit before a justice of the peace.

Collector may
appoint deputy.

§ 8. A collector of county levy appointed by the county court may appoint one or more deputies; he and his sureties shall be liable for their acts as such, and their liabilities to him shall be the same as the liabilities of deputy sheriffs to their principals.

Returning de-
linquents.

§ 9. It shall be the duty of the sheriff, or the collector of the county levy, at the same term of the court, and in the same manner that the sheriff is required to do in relation to the return of his delinquent list of the public revenue, to return to the county court all delinquents in the payment of the county levy; and he shall, for all such as are allowed by the county court, be credited in his settlement with said court.

Court may re-
list.

§ 10. The county court may relist the delinquents returned, or place the collection of the same in the hands of other persons; and in cases where the delinquents have removed to other counties, cause them to be listed with the sheriffs of such counties, who shall collect and account for the same as other public dues placed in their hands for collection.

Return of de-
linquents re-list-
ed.

§ 11. The sheriff of each county shall, at the county court preceding the expiration of his office, make a return in writing, verified by his oath, of delinquents relisted with him by said court, and the amount collected of the same during the time he was in office; and where he has not collected the money from any delinquent, he shall, if known to him, state his residence.

ARTICLE III.

Majority of
justices neces-
sary to appro-
priation over
\$50.

§ 1. The county court, except for the county of Jefferson, unless composed of a majority of the justices of the peace of said county in commission, shall not have power to make appropriations of the county revenue, or to make any charge thereon greater than fifty dollars for any one object; nor shall any such appropriations or charges exceed, at any one term, the sum of one hundred dollars in the aggregate.

Allowance for
deficit.

§ 2. The court, in imposing the levy, may add a sum, over and above the claims allowed and debts due by the county, which, in their opinion, will be sufficient to meet the probable deficit or loss in collection.

§ 3. A county creditor, though his claim is ordered to be paid by the court, after the county levy for the year has been imposed, may, nevertheless, sue for and recover his claims of the sheriff or collector, or their respective sureties, as other county creditors, if there be in the hands of the sheriff or collector, a sufficient sum to pay him, after deducting the previously allowed claims.

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Suit by county creditor.

§ 4. Slaves hired or resident in another county shall be listed as tithables by the owner, and the levy paid in that county in which he shall reside.

Slaves hired in another county.

§ 5. The inhabitants of every city and town whose corporate authorities, by law, have power to provide for their poor, to keep their streets and alleys in order, and who do the same, shall not be deemed tithables, or required to pay county levy under the provisions of this chapter.

Poor.

§ 6. The county court shall, in the month of September, in each year, and oftener if it be advisable, cause a settlement of the sheriff's or collector's accounts concerning the county levy to be made and reported to the court; and for that purpose shall appoint some competent person as commissioner; and upon receipt and approval of said report, shall make such order concerning the remainder of the money, if any, due to the county, as they may deem necessary for its safe-keeping.

Settlement of sheriff's or collector's account.

§ 7. When a jailor or constable may have rendered services to the commonwealth, the payment of which is not, by law, made at the treasury, the court shall allow the same as a charge upon the county levy.

Allowance to jailor.

CHAPTER XLI.

FORFEITURE AND RELINQUISHMENT OF LANDS.

§ 1. When the title to any land shall be vested in the commonwealth, by forfeiture for any cause, or shall be relinquished under the provisions of this chapter, and the same or part thereof shall be in the possession, occupancy, and cultivation of any person who has title or claim, in law or equity, to the land so possessed, occupied, and cultivated by him, and who has regularly paid the taxes on the same, the title forfeited and vested in the commonwealth shall, *ipso facto*, pass and vest in such occupant or owner, so far as it may interfere with the claim of the occupant or owner, unless in cases where the title or claim of such occupant or owner is founded upon and derived from a Kentucky land warrant, issued since the sixth day of February, 1815.

Relinquishment of land forfeited to occupying claimant.

§ 2. A person vested with title to land acquired under the laws of Virginia or of this state, his heirs or grantees, immediate or remote, may relinquish the said land, or any

Relinquishing title to commonwealth.

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part thereof, and vest such title in the commonwealth, in the following manner:

By resident.

1. If a resident of this state, he shall make and sign an entry in the record book of the surveyor of the county where the land, or the greater part thereof, lies, in which he shall describe the land, and give the metes and boundaries of the part relinquished, and the name of the patentee, if known. The entry shall be attested by the surveyor. If the entry be made by an agent, the power of attorney shall first be recorded as other powers, in the clerk's office of the proper county.

By non-resident.

2. If the person be a non-resident, then by a like entry with the auditor of public accounts, attested by him, in a book to be kept for that purpose.

CHAPTER XLII.

SALT AND SALTPETRE WORKS.

ARTICLE I.

Salt and saltpetre works to be inclosed.

§ 1. The owner and occupant of salt works and saltpetre works within this state shall keep the same, and the grounds upon which the brine or bittern water, or saltpetre water is drained or deposited, inclosed by a good substantial fence, house, or wall, so as to prevent the stock of other persons from having access to the same. When such fence, house, or wall is not so kept, and the stock of another is injured by the brine, bittern, or saltpetre water, the owner and occupant of said works shall jointly and severally forfeit and pay five dollars each for every twenty-four hours such works may have been left uninclosed, and shall also pay to the party injured such damages as he may have sustained by the injury or destruction of his stock. The penalty and damages to be recovered by appropriate remedies.

Abandoned wells to be filled up.

§ 2. Wells and pits sunk for salt water, or any other purpose, when they shall be abandoned or not used, shall be filled up, or inclosed as provided in the above section, by the owner or occupant of the grounds, or the persons who sunk the same; and for every twenty-four hours the same are left uninclosed or unfilled, the occupant of the land, the owner thereof, or the person who sunk the well or pit, shall jointly and severally be liable to the same penalty and responsibility prescribed in the first section of this chapter.

ARTICLE II.

Water conveyed over lands of another.

§ 1. When the owner or lessee of a salt well or spring shall desire to convey in pipes or troughs the water therefrom to a point more convenient to fuel, he may do so,

when necessary, over the lands of another, upon the conditions and terms herein prescribed:

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1. He shall apply to the county court of the county in which the land over which he desires to run his pipes or troughs lies, whose duty it shall be to appoint three impartial freeholders of the county as viewers of the ground along which the water is to be conveyed, who shall, before they enter upon the duties required, take an oath faithfully to view and mark the route along which it is proposed to convey the salt water.

Viewers appointed.

2. Said viewers shall make and sign a report to the court of the route, and the names of the owners of the land over which it passes.

Their report.

3. No such route shall pass through the yard, garden, or meadow, or between the dwelling and spring or other buildings of any owner or occupant of land, without the consent, in writing, of such owner and occupant.

Route not to pass through garden, &c.

4. Upon the return of such report, a summons shall be issued, returnable to the next court, against the person owning and occupying the land over which it is proposed to conduct salt water by the route described in said report, if they are resident in the state; if any of them are non-residents, a warning order shall be made against them to appear at the next term and show cause, if any they have, why the applicant should not have the liberty of conveying salt water over his land as proposed by the report.

Summons against owners.

5. Upon the return of the summons executed, if any of the parties summoned or warned desire it, the court shall award a writ of *ad quod damnum*, commanding the sheriff to summon twelve impartial housekeepers of his county to meet on a day and a place upon the premises to be fixed in said writ. The jury shall be sworn and charged by the sheriff impartially to view the lands through which the salt water is to be conducted, and to affix in their verdict the amount of damage it will be to the respective owners or occupants who desired such writ, taking into their estimate the value of the land appropriated, as well as any other inconvenience to the owner or occupant. The inquest shall be signed by the jurors, and with the writ returned by the sheriff to the county court. The court for good cause may, on motion, set aside the inquisition and award a new writ; if no such motion be made, the court shall, if the applicant request it, enter up judgment or order for the exercise of the privilege desired. But before he shall enter upon the land, he shall pay into court the amount assessed by the jury for the use of the party in whose favor it has been assessed, and pay the legal costs of the proceedings; and if he abandons the motion, or declines to accept the right, the court shall give judgment against him for costs, in favor of the defendants.

Writ of *ad quod damnum*.

Proceedings thereon.

Damages and costs to be paid before land entered upon.

§ 2. Under and by virtue of this order of the county

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Right of ingress and egress.

court, the party applying for the privilege shall have right of ingress and egress upon the premises, to erect and repair the pipes or troughs necessary to conduct the salt water, as provided in the first article of this chapter.

Jury may be adjourned.

If they disagree, new jury.

§ 3. If the jury first impaneled does not complete the whole inquest in one day, they may be adjourned from day to day until the same be finished; or if, from any cause, they fail to agree, or the jury be not impaneled at the time and place named in the writ, the sheriff shall summon a jury to meet on the premises, on some other day, of which he shall give the parties reasonable notice, in writing, and there and then proceed, as herein provided, to execute the commands of said writ.

CHAPTER XLIII.

LEGISLATURE.

Members exempt from arrest.

May be expelled, &c.

Each house may punish for contempt.

How contempts inquired into.

By whom orders executed.

Privileges of witnesses.

How fines collected and accounted for.

§ 1. The members of the general assembly shall in no wise be disturbed or embarrassed in the great and important business of legislation. They shall not, directly or indirectly, by any ways or means, be arrested, menaced, or otherwise disturbed during the existence of their constitutional privilege, except on legal process for treason, felony, breach of the peace, or misdemeanor. A member of either branch of the legislature guilty of a breach of privilege, may be expelled, censured, or fined by the concurrence of two-thirds of the members present.

§ 2. Either house of the legislature shall have power to punish any one by fine not exceeding five hundred dollars, and by imprisonment not exceeding six months, or either or both, for a contempt or breach of privilege.

Contempts and breach of privilege shall be inquired into first by a special committee appointed for that purpose, before which the accused shall have the right to be heard by himself and counsel, and have compulsory process to procure the attendance of his witnesses; which committee shall report all matters of fact specially, with their opinion thereon, for the final action of the house.

§ 3. The orders of either house shall be executed by their respective sergeants-at-arms, or by any sheriff to whom the same may be directed. Witnesses attending the legislature, or a committee thereof, shall be entitled to all the privileges and immunities, and the same compensation, to be paid, when summoned by the commonwealth, out of the public treasury, as are allowed witnesses in other cases.

§ 4. All fines imposed by virtue of this chapter shall be collected by the sheriff of the county where the delinquent or his estate may be found, under the mandate of the house, signed by the speaker, and paid into the public treasury by

the officer, and accounted for as other public moneys collected by him. The mandate shall be made returnable to the auditor, within ninety days from its date; and if the money cannot be made under the first mandate, the auditor shall renew the same under the seal of his office from time to time until the fine and costs shall be collected.

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§ 5. During the sessions of the legislature, the speaker of either house, the clerk thereof, or the chairman of a committee shall have power to administer oaths to witnesses testifying before them.

Oaths, who may administer.

§ 6. The senate or house of representatives shall have power to send for persons, papers, and records for their information, on any subject or question which may be pending before them, or referred to a committee for investigation and report.

Power to send for persons and papers.

§ 7. The clerks of the two houses of the general assembly, at the close of each session, shall make an inventory of all the books, stationery, and furniture belonging to the respective houses, and take the receipt of the keeper of the state house for the same, who shall be answerable therefor. If the keeper refuse to sign such receipts, they shall report him to the governor, whose duty it shall be to appoint another keeper of the state house. The receipts of the keeper shall be filed with the secretary of state for safe-keeping.

Books, stationery, furniture, &c.

§ 8. No memorial or petition to the legislature, praying for the division of a county, the establishment of a new county, change of a county line, the change of the place for holding any court, or relating to any other local matter, shall be received or acted upon unless the purport or object of such petition or memorial shall have been published, in writing, at the door of the court house or other place of holding courts of the county or counties to be affected thereby; at least two months prior to the meeting of the legislature.

Certain memorials not to be acted upon unless published before session.

§ 9. No memorial or petition shall be received, or bill introduced into either house for the establishment of ferries, or other matters affecting private right or property, unless the parties interested shall have one month's notice, in writing, of such intended application, if known to the petitioners; if not known, the purport of such memorial, petition, or bill shall be published as required in the preceding section, and also inserted three weeks in some authorized newspaper within this state, at least one month prior to the meeting of the general assembly.

Notice required for memorials affecting ferry rights, &c.

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CHAPTER XLIV.

CLAIMS UPON THE TREASURY.

ARTICLE I.

How paid.

§ 1. The claims and demands upon the treasury specified in this chapter shall be paid when due, by the treasurer, to the persons entitled to the same; the warrant to be issued by the auditor of public accounts, upon such proof, by vouchers, of the service rendered, or of the justice of the demand, as is herein required.

How mileage computed.

§ 2. When allowance is made for mileage or traveling, the number of miles shall be computed upon that road which is the nearest, and most usually traveled by land.

Expenses of general assembly.

§ 3. The pay and mileage of the speakers and members of both houses of the general assembly, the compensation to the officers of the two houses, except the chief clerks thereof, upon the certificate of the respective clerks of the amount due; the compensation of the chief clerks upon the order of each house, stating the amount due; all other contingent expenses of the general assembly, upon the production of the vouchers, countersigned by the clerks of the respective houses.

Pay and mileage of presidential electors.

§ 4. To each elector of president and vice president of the United States, three dollars per day for each day he attends at the seat of government as an elector, and three dollars for every twenty-five miles necessarily traveled in going to and returning from the place of meeting.

Rewards.

§ 5. The reward offered by the governor of this state, not exceeding five hundred dollars, for the apprehending and the delivery into the custody of the proper officer named in the proclamation, a fugitive from the justice of this commonwealth, upon the production of the officer's receipt of the fugitive, approved and certified by the circuit court of the county of his residence.

Express.

§ 6. Such allowances, not exceeding six and a fourth cents per mile of necessary travel, as the governor shall certify to be due to any person employed by him as an express to carry his despatches to any place in or out of this state.

Notices, &c., auditor.

§ 7. Such sums of money as the governor shall certify to be necessary, and required by the auditor to enable him to give notices and perform other necessary acts and duties to enforce from the sheriffs or other persons in default, the collection of the money due to the commonwealth.

Fuel, stationery, &c.

§ 8. The costs of fuel, blank book, stationery, and presses and implements necessary for the use of the public offices of the secretary of state, auditor of public accounts, treasurer, register, state librarian, and board of internal improvement, upon the certificate and approval of the governor, accompanied by the vouchers for the same.

§ 9. The costs of transportation and other expenses of books, papers, and other articles transmitted on public account to the executive of this state, from the authorities of the United States, or of any state, or from the government of any foreign state.

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Transportation
of books, &c.

1. The amount paid or agreed to be paid for the binding of books in the office of secretary of state, and other executive offices at the seat of government.

Binding.

2. The amount of legal postage charged upon the public and official correspondence of the commonwealth.

Postage.

3. The costs of all repairs made from time to time by the keeper of the state house by the directions and advice of the governor, and upon the public buildings and inclosures on the state house square at the seat of government. The amount due for any of the objects aforesaid to be certified and approved by the governor, accompanied by the vouchers.

Repair of public
buildings,
&c.

§ 10. The salaries and compensations to public officers or agents, when fixed or prescribed by law, shall be paid on the warrant of the auditor, except the salary of the auditor, that shall be paid upon the warrant of the auditor when approved by the governor.

Salaries.

ARTICLE II.

Claims allowed or approved by a court.

§ 1. That within twenty days after the termination of each session of the court of appeals, circuit court, chancery court, and county court, their respective clerks shall make out and certify an alphabetical list of all claims payable out of the public treasury, which have been allowed by the court, and transmit the same, by mail or otherwise, to the auditor of public accounts. No warrant for a claim requiring the approval of a court, shall be issued until such list shall have been received by the auditor. The auditor shall keep separate and complete records of all claims allowed in each county, noting the number and amount of each warrant issued therefor.

Claims allowed
by court.

1. To the clerk of each court named in the first section of this article, such reasonable sums as he may have paid, or contracted to pay for necessary well bound blank books, for the use of his office, and for the necessary presses and cases for the like use, each item to be separately stated.

Blank books
for clerks.

2. And, also, a sum not exceeding ten dollars, for an official seal, when necessary to obtain one for the use of his office.

Seal of office.

ARTICLE III.

Claims of sheriffs.

§ 1. For the execution of the sentence of a court inflicting capital punishment, \$6 00

For sheriff's
salary.

1. For summoning and attending a jury in a case of felony, 1 50

1883.	2. For apprehending a person on a charge of felony, or a fugitive from justice;	2 00
	3. For executing process for contempt of court in a criminal case, when the court excuses the contempt,	62½
For jailers' duties.	§ 2. When the sheriff or other person has performed the duties of jailer, the same fees and allowances shall be paid to him that are prescribed for jailers.	

ARTICLE IV.

Constables, Coroners, Elisors, and Jailers.

Constables.	§ 1. To a constable, for apprehending a person on a charge of felony, or a fugitive from justice	\$2 00
	1. Executing a summons upon a witness in behalf of the commonwealth, in a case of felony,	10
	2. For conveying a prisoner under a charge of felony to the jail of the county in which he was apprehended, four cents per mile for each mile traveled in going to and returning.	
Coroners.	§ 2. To a coroner or an elisor, when they have been required to perform the services of sheriff, the same amount for the services performed as if performed by a sheriff.	
Jailers.	§ 3. To jailers, for imprisoning and releasing a prisoner charged with felony or contempt,	40
	1. Keeping and providing for a prisoner, under like charge, per day,	35
	2. Putting a prisoner in irons, besides the costs of the irons,	25
	3. For each day he attends the circuit court when in session,	1 00
	4. The amount allowed by the circuit court for fuel and candles furnished for the court during the term.	

ARTICLE V.

Claims for expenditures in criminal prosecutions, and claims of the sergeant of the state.

Sergeant and tipstaff.	§ 1. To the sergeant of the state, for each day he attends the sessions of the court of appeals,	\$2 00
	To his tipstaff, appointed by him, for the like services,	2 00
Sergeant to keep account.	§ 2. The sergeant of the state shall keep an account of all fees for services rendered by him for the commonwealth, in judicial proceedings, which he shall verify by his oath, and exhibit the same to the court in relation to whose business the services were rendered; which, if approved by the court, shall be paid out of the public treasury.	
Claims to be paid only when allowed by court.	§ 3. The claims designated in the second, third, fourth, and fifth articles of this chapter, are to be paid only when the same shall be approved, allowed, and certified by the court in relation to whose business the services were ren-	

dored, or for whose use and benefit the articles were provided:

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ARTICLE VI.

Claims miscellaneous.

§ 1. The reward allowed by law for killing wolves and wild cats.

Wolves and wild cats.

§ 2. The amount, not exceeding two dollars per day, allowed and certified by the court to an attorney of the commonwealth for a county, for taking depositions when required by the auditor, in a case in which the commonwealth is a party interested; also, the legal costs of said suit, when certified by the court in which it may be pending, or in which it has been decided.

Depositions and costs.

§ 3. Postage may be paid, under the provisions of the first article in this chapter, upon communications by mail, to or from the auditor, upon public business connected with his official duties. Upon official communications to or from the adjutant general, from a major or brigadier general, or packages inclosing militia commissions.

Postage.

1. Upon letters or packages sent to or from the quartermaster general, upon the business and duties of his office.

2. Letters and packages to or from the secretary of state or the governor, upon public business.

3. Letters and packages to and from the superintendent of common schools or president of the board of internal improvement, upon official business.

4. Each of the aforesaid officers shall keep an accurate account of the postage paid or due upon the official business of their respective offices, and verify the same by their affidavit, which shall authorize the governor to issue his requisition to the auditor for his warrant upon the treasury.

Officers to keep account of postage.

§ 4. The adjutant and quartermaster general, when there are no offices furnished by the government, may each rent offices, and be paid, upon the certificate of the governor, an amount not exceeding fifty dollars each.

Rent of offices.

§ 5. The judge advocate of any general or brigade division court martial, convened for the trial of militia officers for neglect of duty, disobedience of orders, or ungentlemanly conduct, shall be paid two dollars per day for each day he attends upon the session of said court. The provost of such court, for the like services, shall be paid one dollar; and to each witness summoned on the part of the prosecution, his tolls and mileage as witnesses in other cases, and fifty cents for each day's attendance. The above claims to be allowed by the court, and certified by its president, before paid at the treasury.

Judge advocate and provost of court martial.

§ 6. A brigade inspector shall be paid one dollar and fifty cents for each day he attends upon a regimental muster. His account for services shall, at the end of the year, be produced to the governor, accompanied by the certificate of

Brigade inspectors.

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the general of brigade that the services were well performed; and, if approved by the governor, shall be the authority to the auditor to issue a warrant for the amount.

Slave executed.

§ 7. The owner of a slave executed or condemned for felony, as prescribed in the chapter on slaves, &c., shall be paid such sum as shall be certified by the court, and upon the evidence being produced to the auditor as is required by law.

Support of idiots and lunatics.

§ 8. To the committee of an idiot, by order of a circuit court, for his maintenance and support for a year, a sum not exceeding fifty dollars.

Institutions for deaf and dumb, and blind.

§ 9. To the trustees of the institutions of Kentucky for the teaching of the deaf and dumb, or the blind, upon the certificate of the governor, a sum not exceeding one hundred and fifty dollars for each indigent pupil maintained and taught in said institutions per year. No such pupil shall be maintained or paid for out of the public treasury for a longer term than three years, nor shall the whole sum so expended exceed, in any one year, two thousand five hundred dollars.

CHAPTER XLV.

WOLVES.

Reward for killing wolves and wild cats.

§ 1. Every person who shall kill a wolf or wild cat within this state, shall be paid out of the public treasury, for each wolf four dollars, and each wild cat one dollar.

Head to be produced to justice of the peace.

§ 2. Before the amount allowed for killing a wolf or wild cat shall be paid, the person killing the same shall produce the head thereof before a justice of the peace of the county in which the same was killed, who shall administer to him the following oath or affirmation:

Oath.

You do solemnly swear that the head now produced by you is the head of a wolf, (or wild cat, as the same may be,) which you have killed in this state; that you did not take said wolf, (or wild cat,) in any other state, and bring the same into this state; that you did not breed and raise the same, nor was it done by another, to your knowledge or belief, and kill the same for the purpose of obtaining the reward for killing wolves and wild cats; that you will truly state the time and county in which said animal was killed.

Certificate of justice.

§ 3. The justice shall issue to such person, by name, a certificate, stating the facts, and that he has taken the oath required by law. The justice shall, forthwith, destroy the head.

Certificate of court.

§ 4. Upon the production of such certificate to the circuit court of the same county, if it shall, in the opinion of the court, be in due form, the amount which such person is entitled to receive from the treasury shall be certified by the said court.

§ 5. Upon the presentation of such certificate, certified and approved by the court, to the sheriff of the county, he shall pay the same out of any public money in his hands; and on the production of the certificate, with the receipt of the proprietor on the same, attested by one witness, the auditor shall allow the sheriff a credit for the amount thereof; or if presented by the proprietor to the auditor, he shall issue his warrant on the treasury for the amount.

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To be paid by sheriff and allowed by auditor.

CHAPTER XLVI.

GUARDS, PUBLIC.

§ 1. When, in the opinion of the judge of the circuit court of the county, the safe-keeping of a prisoner confined under a charge of felony requires that a guard shall be kept over him, he shall make the order of record to that effect, and direct the number of the guards to be summoned, by whom to be summoned, and under whose control the same shall be placed. If the safe-keeping of the prisoner is rendered doubtful from the insufficiency of the jail, the order shall state that fact; in which case, the expenses of the guard, when certified by the circuit court, shall be paid by the county. The order of the judge for the guard may also be made in vacation.

When appointed.

When county to pay expenses.

§ 2. Not more than two guards shall be employed by any officer to assist him to guard any criminal to the penitentiary, or prisoner under arrest for crime, before or after the trial of such prisoner, or to assist the officer in the removal of a prisoner from one county to another, without the special order, in writing, of the judge or justices before whom said prisoner has been tried, or brought for examination and inquiry. If two or more prisoners are to be guarded, the officer may increase his guard to three.

How many.

§ 3. The judge or justices in the case referred to in the preceding section, if satisfied by evidence, that there is danger of a rescue, or of an escape, shall order the necessary number of guards to be summoned to conduct the prisoner to the penitentiary, or to jail, or to safely keep him until trial can be had.

When number may be increased.

§ 4. If two or more criminals shall be convicted at the same term of any court, they shall all be conducted to the penitentiary by the same officer and guard, and the officer and guard shall be allowed compensation for such service for one trip only.

Two or more prisoners to be conveyed at the same time.

§ 5. The officer conducting a convict to the penitentiary, or person from one county to another, upon horseback, shall be allowed twelve and a half cents per mile for going to, and twelve and a half cents per mile for returning; guards for the same services, six cents per mile, and seventy-five cents per day; officers and guards to be allowed

Compensation, &c.

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their ferriages and tolls paid, and to pay their own expenses. The officer shall be allowed all reasonable expenses for putting in irons, dieting, lodging, horse hire, ferriages, and tolls paid for the prisoner.

How claims
verified.

All such claims shall be verified by the oath of the officer, if living, or other witness if the officer be dead or out of the state, and approved by the circuit court, before they shall be paid at the treasury. If the auditor shall be of opinion the amount allowed by the circuit court is too great, he may, upon evidence of witnesses sworn by himself, reduce the same.

When convict
conveyed by
stage, steam-
boat, &c.

§ 6. When the convict or prisoner has been conveyed by stage, steamboat, railroad, or by any other like conveyance, the officer shall be allowed the actual expenses paid for such prisoner, exclusive of his own allowance as above.

To be verified
by officer and
certified by
clerk.

§ 7. No allowance shall be made by any court to an officer for the fees paid to the guards, or expenses incurred for the prisoner, unless the officer shall verify, upon oath, the true amount paid by him. All allowances to officers and guards, under this article, shall be certified by the clerk of the court of that county in which the prisoner was tried, that the same has been sworn to, proven, and allowed by the court.

CHAPTER XLVIII.

SINKING FUND.

ARTICLE I.

What consti-
tutes the sink-
ing fund.

§ 1. The public revenue and income from the following sources, viz: the tax of five cents upon each one hundred dollars of taxable estate specified in the chapter on revenue and taxation; the tax imposed on bank stock, and on the capital, dividend, or income of all other monied corporations or institutions, except the Farmers' Bank of Kentucky; the tax upon brokers; the tax upon the agents of any insurance company, including the fines and forfeitures, which may be recovered of either; the net dividends upon the stock owned by the state in any bank, or other institution; the premiums on the sale or exchange of state bonds heretofore, or which may hereafter be made; the dividends of the state upon stock owned in any turnpike, or other road, bridge, or public work; the profits arising from works of internal improvements constructed by the state, or in which the state is now, or may hereafter become interested; the income or profits of the state in any railroad company, the amount due, or to become due from such company; the profits of the state arising from the operations of the penitentiary; the assets of the bank of the commonwealth, debts due, or to become due to said institution, or to the state on account of the same; the interest of the state in

the stock or debts due, or liabilities existing, on account of the old bank of Kentucky; the proceeds of sales or leases of water privileges, at the locks and dams built by the state; the stock held by the commissioners of the sinking fund in any bank; the revenue derived from the tax imposed by the second section of the first article of the chapter on revenue and taxation; the tax on playing cards; the interest due and payable upon the loan of the state to the keeper of the penitentiary; the surplus revenue over ten thousand dollars which may remain in the treasury at the end of each fiscal year; and such other tax or fund, which, by any law now in force, or hereafter enacted, has been, or may be set apart for that purpose, shall constitute the sinking fund of Kentucky; and the same shall be sacredly devoted to the payment of the principal and interest of the public debt of the state, and to no other uses or purposes whatever.

§ 2. The governor of the commonwealth, the president of the bank of Kentucky, and the president of the northern bank of Kentucky, and their successors, shall *ex officio* constitute the commissioners of the sinking fund of Kentucky, and by that name have corporate existence; may sue and be sued, and do and perform all things necessary to execute the duties required, and the powers given them by law. They may have and use a common seal, pass rules and by-laws for the government of the commissioners and of said fund, not inconsistent with the laws of this commonwealth.

§ 3. The auditor of public accounts shall *ex officio* be secretary of the board of commissioners of the sinking fund of Kentucky; he shall keep a faithful record of the proceedings, acts, orders, and doings of said board, subject to the inspection of the legislature, or a committee thereof, at all times when required.

§ 4. The governor shall be president of the board, and any two of the commissioners shall be competent to compose a board for the transaction of business.

§ 5. The funds, estate, and income belonging to, or set apart by law for the use of the sinking fund, shall be vested in, and controlled by the said commissioners, and when injured, withheld, or abstracted, may be sued for and recovered either in their corporate name, or in the name of the commonwealth of Kentucky.

§ 6. It shall be the duty of the commissioners of the sinking fund, by the means and income of said fund, to protect the credit of the state, by a faithful and prompt application of the same to the payment of the interest and principal of the public debt when due. They shall, for that purpose, and to the extent of the annual income of said fund, deal in exchange; may deposit in any of the banks of this state, or in the savings bank of Louisville,

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To what devoted.

Who constitute commissioners of sinking fund.

Corporate powers.

Auditor *ex officio* secretary. His duties.

Governor president. Two compose board.

Commissioners to control fund.

Duties and powers of commissioners.

May deal in exchange.

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May purchase
bank stock.May subscribe
stock reserved
for state.Report to gen-
eral assemblyBank stock
purchased part
of fund.May vote stock
by proxy.Vacancy—gov-
ernor may fill.Keeper of peni-
tentiary to re-
port to commis-
sioners.Penalty for
failure.

any of the money of said fund upon terms which may be agreed upon by the parties. They shall have power to purchase stocks in any of the banks of Kentucky; to apply any surplus on hand at any time to the extinguishment of any portion of the public debt of the state, by payment or purchase of the bonds at or under the nominal value. They shall have power to subscribe and pay in, if the means of said fund are not needed to pay the interest on the public debt, or cannot be applied to the payment or purchase of the state bonds, the stock in the bank of Louisville, and the bank of Kentucky, which has been reserved for the commonwealth of Kentucky. No more stock shall be subscribed in either of the said banks, at any one time, than the commissioners shall have surplus funds to pay for at the time.

§ 7. The commissioners shall make a report to the general assembly, during the first week of each session thereof, of the condition and application of the sinking fund, for each of the two preceding years, with such suggestions as they may deem proper as to its improvement and future management; and shall, when required, give to the legislature information concerning said fund.

§ 8. All bank stock purchased or subscribed for by the commissioners of the sinking fund shall be held as a part of said fund.

§ 9. The stock in any bank or incorporated company, held in the name of the commissioners of the sinking fund of Kentucky, may be represented and voted in meetings or elections, by proxy, constituted by order, in writing, by the commissioners.

§ 10. If either of the presidents of the banks shall refuse to serve as commissioner of the sinking fund, the governor shall fill the vacancy until the end of the next session of the general assembly.

§ 11. The keeper of the penitentiary shall report, under oath, semi-annually, to the commissioners of the sinking fund, the profits of the institution, and pay the state's proportion thereof into the treasury, to the credit of said fund. If he fail or refuse to make a report, or make a false or fraudulent report, or if he shall fail to pay over the sum due, he shall forfeit and pay to the commonwealth, for the use of the sinking fund, five hundred dollars for each offense, to be recovered by action, or suit, or presentment, in the name of the commonwealth, and also shall be liable, by suit, for the amount due, with legal interest and costs of suit.

ARTICLE II.

§ 1. The auditor and treasurer shall keep the account of the income and expenditures of the sinking fund in separate books, so as to exhibit the amount paid into the treasury, and from what source; and the amount paid out, and upon what authority, and for what purposes.

Accounts.

§ 2. No money shall be paid into or drawn from the treasury on account of the sinking fund, but in the manner prescribed in the ninth and tenth sections of the chapter prescribing the duties of treasurer.

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How money
paid and drawn.

§ 3: The auditor shall issue no warrant upon the treasury, to the credit of the sinking fund, unless a copy of the order of the board of commissioners, requiring such warrant, shall be presented to him by the president of the board; and he shall report to the board of commissioners of said fund, at the expiration of every month, the amount paid in and the amount drawn from the treasury on account of the sinking fund.

When auditor
shall issue war-
rant.

To report
monthly.

§ 4. All orders for the payment or expenditure of money by the board on account of the sinking fund, shall be entered upon the books of said commissioners.

All orders to
be entered.

§ 5. When the commissioners shall deem it advisable to have the money, or any part thereof, to the credit of the sinking fund, withdrawn from the treasury and deposited in any bank, in or out of this state, an order of record for that purpose shall be made, in which order the bank or banks shall be named; upon the production of a copy of such order by the president of the board, the auditor shall issue his warrant for the amount in favor of the president of the board, whose duty it shall be to make the deposit in the bank, to the credit of the commissioners of the sinking fund of Kentucky.

How deposits
in bank made.

§ 6. The commissioners shall, upon the payment of the bonds of this state, or coupons of interest, cancel and register the same in such mode as they shall deem best.

Bonds and cou-
pons to be can-
celled.

§ 7. Interest shall not be paid upon any state bond heretofore issued, payable in six years after date, from and after the first day of February, 1848.

CHAPTER XLVIII.

TREASURER.

ARTICLE I.

§ 1. No person shall be elected or appointed treasurer unless he be a citizen of the United States, at least twenty-four years of age, nor unless he has resided within the state of Kentucky two years next preceding his election or appointment.

Qualifications.

§ 2. The treasurer shall enter upon the duties of his office the first Monday in January next succeeding his election or appointment. He shall, on or before that day, take the oaths of office, and execute bond, with surety worth at the time, jointly or severally, three hundred thousand dollars, to be approved by the governor, and filed in the office of the secretary of state, for the faithful discharge of

When to enter
on duties.

Oath and bond.

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the duties of his office; upon which, for any breach thereof, suit may be instituted from time to time, and recovery had to the extent of the damages sustained by the commonwealth or by others.

When appointed by governor.

If the treasurer is appointed by the governor under the twenty-sixth section of the eighth article of the constitution, he shall, upon taking the oaths of office and giving bond, forthwith enter upon the discharge of his official duties.

Copy of bond, &c., communicated to legislature.

§ 3. The governor shall, within ten days, communicate to the legislature a copy of the treasurer's bond, and the fact of his having approved the surety, and taken the oaths of office, if in session; otherwise, within ten days after the commencement of the session succeeding the date of said bond.

Office at seat of government.

§ 4. The treasurer shall reside and keep his office at the seat of government. Upon the expiration of his term, or resignation of his office, or death, the secretary of state and auditor of public accounts shall examine his accounts, state the same, count the money in the treasury, take an inventory of the books and stationery, and implements of the office; which shall all be passed to his successor, who shall receipt for the same, which receipt shall be filed in the office of secretary of state.

Examination of accounts, &c., at end of term.

Appointment of person to act in Treasurer's absence or sickness.

§ 5. If the treasurer is sick and unable to discharge the duties of his office, or if he absents himself from the seat of government, it shall be his duty to recommend, in writing, to the governor, some person to discharge the duties for him during such sickness or absence; and if the governor approves the recommendation, he shall cause the same to be entered upon the executive journal; after which, the person so recommended may perform the duties of the treasurer until he is restored to health, or returns to the seat of government. The treasurer and his sureties shall be responsible on their official bond for the acts of the person thus appointed by the treasurer.

Suspension of Treasurer.

§ 6. When, in the opinion of the governor, auditor, and attorney general, or a majority of them, the public funds are in danger, by being under the control of the treasurer, they shall have power to suspend him from official duties until the meeting of the general assembly, to whom the facts shall be reported; and the governor shall, in that case, designate some one to perform the duties of treasurer, who shall take the oaths of office, give bond, with surety worth \$100,000, to the commonwealth for the faithful discharge of the duties of treasurer, and who shall continue in office until the treasurer is restored to his official duties, or a successor be elected or appointed and qualified.

Money received and paid only on warrant, &c.

§ 7. The treasurer shall not receive into nor pay out any money from the treasury, except upon the certificate or warrant of the auditor.

§ 8. He shall pay out no money from the treasury, even though the auditor issues a warrant therefor, unless the law under which the same may be claimed expressly directs and orders that the money shall be paid out of the public treasury.

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And directed by law.

§ 9. The treasurer shall receive and safely keep in the treasury all money due or payable to the commonwealth from collectors of revenue, public officers, and others, when tendered, accompanied by the permit of the auditor of public accounts, stating the amount to be received, on what account, and from whom to be received. He shall immediately make out a receipt for the amount received, and for what, and of whom received, and deliver it to the auditor, who shall, in like manner, give a receipt to the officer or person paying the same. The receipt, besides stating the amount paid, shall also, if it be all that is due from the officer or other person, so state.

How money received and receipted for.

§ 10. If the treasurer, or any person acting as treasurer, willfully misapplies any of the public money, or shall loan or use the same for his own purposes, or for the uses or purposes of another, he shall be guilty of felony; and, upon indictment and conviction thereof, confined in the penitentiary for a period not exceeding ten years, at the discretion of the jury.

Penalty for misapplication, &c., of money.

ARTICLE II.

§ 1. The treasurer shall keep in appropriate well-bound books, to be provided by him, at the public expense, true accounts of all money paid into the treasury, by whom, when, and on what account paid. He shall keep the accounts of the sinking fund, internal improvement fund, and the common school fund, distinct from each other, and from the ordinary revenue of the government; and in like manner he shall keep a true account of all sums paid out, when, to whom, and for what paid. The accounts shall be so kept as to exhibit the amount received and disbursed on account of every department of the public service.

Accounts, how kept.

§ 2. He shall make a clear, distinct, and intelligible report of all money received and disbursed during each fiscal year ending the tenth day of October, for the two years preceding the regular meeting of the general assembly, which shall exhibit the receipts and expenditures of each year on account of every department of the public service, which report he shall lay before the general assembly by the sixth day of the session.

Report to general assembly.

§ 3. The treasurer shall make reports, once per week, to the auditor, of all payments at the treasury, and the warrants upon which the same were made, which reports shall be filed by the auditor in his office. He shall, at all times, when called upon by the governor, exhibit his books and

Report weekly to auditor.

Exhibit books and money to governor.

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Settle monthly.

accounts, and his cash on hand or in deposit. He shall settle his accounts with the auditor once per month, as provided in chapter —, Auditor.

Examining committee.

§ 4. A committee composed of members from both houses shall be appointed, within ten days after the organization of the general assembly, at every regular session thereof, whose duty it shall be personally to examine into the state of the treasury, to examine all papers or vouchers upon which money has been paid, for each of the preceding two years; ascertain the amount of money paid into and paid out of the treasury, and the amount of public money on hand. To notice the misapplication or perversion of any of the public funds, by the treasurer or others. The same committee shall examine the books, office, and accounts of the auditor; and in said examination they shall carefully note, without defacing, all the treasurer's receipts, which are the foundation of a charge against him, in such manner as will plainly show that said receipts have been examined by the committee. The committee shall report the facts fully and truly to each house of the general assembly, for publication, in a clear and intelligible manner.

To examine also auditor's books, &c.

Expiration of term.

§ 5. The treasurer, upon the expiration of his term of office, shall deliver to his successor, when ready to enter upon the duties of his office, all the public money, books, property, or effects under his control, belonging to the commonwealth. If a vacancy occurs in the office of treasurer, by death, resignation, or removal, the governor shall appoint two discreet, well-qualified, and disinterested persons to state the accounts of the late treasurer with the commonwealth; to ascertain the amount of public funds on hand, after making a true and perfect inventory of the same, and taking the receipts of the newly appointed treasurer; they shall return said statement, with their report, to the office of secretary of state. The treasurer, or his personal representatives, or surety, whose accounts are thus stated, may attend the meetings of the commissioners, while engaged in making said statement. The report of the commissioners shall be *prima facie* evidence for and against all concerned and interested.

Vacancy by death, &c.

No money to be paid public debtor.

§ 6. No money shall be paid to any person in his own right, or as assignee of another, when such person or his assignor is owing the commonwealth; and such claims, when presented, shall be liquidated and settled by a credit for the amount thereof upon the accounts of the public debtor, so far as may be required to pay the amount; and for any balance due after settling the whole demand of the commonwealth, payment may be made.

CHAPTER XLIX.
OCCUPYING CLAIMANTS.

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ARTICLE I.

§ 1. If any person, believing himself to be the owner, by reason of a claim in law or equity, the foundation of which being of public record, hath or shall hereafter peaceably seat and improve any land, but which land shall, upon judicial investigation, be decided to belong to another, the value of the improvements shall be paid by the successful party to the occupant, or the person under whom and for whom he entered and holds, before the court rendering judgment or decree of eviction shall cause the possession to be delivered to the successful party.

Value of improvement to be paid by successful party.

§ 2. The court in which the judgment or decree of eviction shall be rendered, at the request of either party, shall direct the clerk of said court to issue a *venire facias* to the sheriff of the county in which the land is situated, commanding him to summon a justice of the peace of his county, and also to impanel a jury of twelve discreet and impartial freeholders, not of kin to either party, to meet upon the premises recovered, on a day to be named in the writ.

Justice summoned and jury impaneled.

§ 3. The justice of the peace shall administer to the jurors, after they have been selected, the following oath: You, and each of you, do solemnly swear, that you will impartially, and to the best of your skill and judgment, discharge the duties required of you in the present case, by the provisions of the law concerning occupying claimants.

Jury sworn.

§ 4. The justice shall swear the witnesses, preside over the inquest and trial, decide all matters of law, preserve order, and may adjourn from day to day until the jury shall have completed the inquest. In case the jury first summoned fail to attend, or, after being sworn, shall fail to agree and render their verdict, the justice of the peace shall direct the sheriff to summon another jury, on a day to be named in his mandate, in writing. The justice shall make out and return to the clerk's office whence the writ issued, a complete record of the proceedings before him, together with the original writ, verdict, and assessment of the jury, certified by him. Either party shall have the right of challenge to the jurors allowed in civil cases; and any deficiency in the jury may be supplied by summoning others.

Duty of justice.

First jury failing.

Record of proceedings.

Challenge of jurors.

§ 5. After the jury shall have been sworn, it shall be their duty, from an examination of the premises, and upon such legal evidence as either party may produce—

Duty of jury.

1. To assess the damages, if any, which may have been done the land by cultivation, and unnecessary waste of timber after the suit was instituted.

Damages.

2. The rents and profits which have accrued after final judgment or decree of eviction.

Rents.

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Value of im-
provements.

3. The value of the improvements upon the land from which the occupant is to be evicted. Which inquest and verdict shall be signed by the jurors.

Inquest may
be quashed.

§ 6. The court to whom the inquest is returned may, upon the motion of either party, for good cause, quash the same, and award a new writ as often as it may be deemed necessary to the ends of justice.

Summons for
witnesses.

§ 7. The clerk issuing the writ, or the justice summoned to preside, shall issue summons for the witnesses, whose attendance shall be coerced by the justice as in other cases.

Copies of in-
quest.

§ 8. The clerk shall make out two copies of the inquest, and deliver one to each party, on request. The party demanding the inquest shall pay to the sheriff, for his services, four dollars; to the justice and each of the jurors rendering a verdict, one dollar per day; which shall be taxed in the bill of costs against the adverse party, if the court shall give judgment for any amount against him.

Costs.

Duty of court
upon inquest re-
turned.

§ 9. The inquest, when returned, shall be docketed as other causes, and stand for trial at the first term. The court shall, after deducting the lesser from the greater assessments, give judgment for the remainder in favor of the occupant or successful claimant, as the case may be. The rent, from the day of the inquest till the time fixed for issuing the writ of possession, shall be computed by the court at the same rate per year as that fixed by the jury for the previous years.

Occupant to
remain in pos-
session until
claim satisfied,
and to have lien.

§ 10. The occupant shall remain in possession of the premises free of rent, after judgment in his favor for improvements, until the same shall be satisfied; and he, or the person entitled, shall have a lien upon the land recovered from him to satisfy the said judgment, and may enforce it by suit in equity, order of court, or other procedure, but without interest when he has remained in possession.

Crops.

§ 11. The occupant shall be entitled to the crop growing on the land at the time of judgment of eviction and order for possession. If any part of the land, at the time of eviction, has no crop growing upon it, and there be no claim for improvements unsatisfied, the court may order the possession of such part to be delivered at any time.

ARTICLE II.

Guardians and
committees of
idiots, &c., may
compromise
suits.

§ 1. If a guardian of an infant, or committee of an idiot or lunatic, shall believe that he can save the estate or advance the interest of the ward, idiot, or lunatic, by a settlement, in whole or in part, of a controversy concerning the lands of such infant, idiot, or lunatic, by compromise of the matter in suit, he shall have power to do so with the approbation of the court; and all bonds, agreements, sales, and conveyances, by him executed, with the approbation of the court, in furtherance or execution of such compromise, shall bind the infant, idiot, or lunatic, and their es-

tate ; and the conveyances so made shall pass the estate of the idiot, lunatic, or infant.

§ 2. No person shall, by the relinquishment of his title to the commonwealth of any part of a tract recovered of a defendant in any suit, avoid the liabilities imposed upon him by this chapter.

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Liabilities not avoided, &c.

CHAPTER L.

GRAND AND PETIT JURIES.

ARTICLE I.

§ 1. No person shall be qualified to serve as a grand jurymen, unless he shall be a citizen and a house-keeper of the county in which he may be called to serve, and over the age of twenty-one years. No civil officer, surveyor of a highway, owner of a grist mill, tavern-keeper, or vender of ardent spirits by license, shall be competent to serve as a grand juror.

Who may serve on grand jury.

§ 2. There shall be summoned by the sheriff of the county sixteen grand jurymen, to attend on the first day of the term of each circuit court, at which criminal or penal prosecutions may be tried.

Sheriff to summon sixteen.

§ 3. Every person summoned to attend as a grand jurymen, if he fail to attend, without a reasonable cause, shall be fined not exceeding ten dollars.

Fine for not attending.

§ 4. If the court shall deem it necessary, a grand jury composed of by-standers may be impaneled at any term, after the discharge of the grand jury first impaneled.

Grand jury of by-standers.

§ 5. The court shall appoint one of the number of every grand jury foreman thereof.

Foreman.

§ 6. The following oath, in substance, shall be administered to the grand jury: Saving yourselves, you do swear that you will diligently inquire of and present all treasons, felonies, misdemeanors, and breaches of the penal laws, which shall have been committed, or done within the limits or the jurisdiction of this county, of which you have knowledge or may receive information.

Oath.

§ 7. If a sheriff shall fail to summon the grand jury as required by law, without a reasonable excuse for such failure, he shall forfeit and pay for each offense a sum not exceeding thirty dollars, nor less than five dollars.

Sheriff failing to summons.

ARTICLE II.

Mode of summoning grand jurors.

§ 1. The jury commissioners, when they select the petit jury, shall in the same mode select not less than thirty-two citizens and house-keepers qualified to serve on the grand jury, from which they shall by lot select sixteen, who shall be reported to the court and constitute the grand jury for

How grand jurors selected.

1852.

the next term: The list so returned, sealed, shall be disposed of by the court and clerk, and the grand jurymen summoned in the same way and manner, by the sheriff, as in case of the petit jury.

Grand jurymen
failing to attend.

§ 2. If a grand jurymen shall fail to attend, or be excused for any cause, his place may be supplied from the by-standers or the list of names originally drawn and returned by the jury commissioners, as the court may order.

Grand jurymen
excused from ju-
ries next court.

§ 3. Persons who have served upon the grand jury one term of a court, shall not be compelled to serve on the grand or petit jury at the succeeding term of said court.

ARTICLE III.

Petit juries.

Consist of
twelve.

§ 1. A petit jury shall consist of twelve persons, unless the parties agree that it may be composed of a less number.

Who may be
jurymen.

§ 2. No person shall be a competent jurymen for the trial of criminal, penal, or civil cases, in the circuit court, unless he be a free white citizen, at least twenty-one years of age, a house-keeper; likewise, sober, temperate, discreet, and of good demeanor.

§ 3. No sheriff or other officer shall at any time summon a juror not qualified as herein required.

Verdict not to
be affected.

§ 4. No verdict shall be void or voidable because of the want of any of the qualifications herein required, nor shall exception be taken to any jurymen for the causes above, after he is sworn.

*De medietate
lingue.*

§ 5. Juries *de medietate lingue* may be directed by the court.

Juror as wit-
ness.

§ 6. Jurors knowing any fact material to the issue shall disclose the same in open court, upon oath, as evidence.

Fine for con-
tempt.

§ 7. A juror guilty of a contempt of court may be fined by the court in any sum not exceeding thirty dollars.

Sheriff not to
converse with.

§ 8. No sheriff or other officer shall converse with the jury upon any subject, after they have been sworn, but by leave of the court.

Penalty for
bribing, &c.

§ 9. If a juror in any case shall take or agree to take any thing, directly or indirectly, to give or refrain from giving his verdict, or shall, from favoritism or corrupt partiality, give or refrain from giving his verdict, and shall be thereof convicted, such juror shall not thereafter serve on any jury, and shall be fined one hundred dollars and a sum equal to ten times the amount received or agreed to be received.

Who exempt.

§ 10. No civil officer shall be summoned on a petit jury in the circuit court. No transient person, physician, surgeon, practicing attorney, or minister of any religious society, shall be compelled to serve on a petit or grand jury.

§ 11. Each party litigant shall have the right of peremptory challenge to one fourth of the jury summoned, and the right to challenge for cause as now given by law.

1850.

Challenge.

§ 12. Having formed or expressed an opinion from mere rumor, shall be no cause of challenge to a juror in any criminal case. When the jurymen is under the influence of prejudice, or will not, in the opinion of the court, make an impartial tryer, he shall be held and adjudged to be an incompetent jurymen. Any other legal cause of challenge to the jurors may be allowed by the court.

Cause for challenge.

§ 13. The following, in substance, shall be the oath to be administered to jurors, in a civil suit, or in a penal prosecution by the commonwealth: "You do swear that you will well and truly try the issue joined between A B, plaintiff, and C D, defendants, and a true verdict give, according to evidence, unless dismissed by the court or withdrawn by the parties;" and in prosecutions by the commonwealth for treason or felony: "You do swear that you will well and truly try and true deliverance make in the case of the commonwealth and A B, the prisoner at the bar, whom you have in charge."

Oath.

ARTICLE IV.

Mode of summoning petit juries.

Jury commissioners.

§ 1. The circuit courts, at their several terms, shall appoint three jury commissioners, possessing the qualifications prescribed for petit jurymen, resident in different portions of the county, and who have no suit in court which requires the intervention of a jury. The judge shall administer to the commissioners the following oath: You do swear faithfully to discharge the duties required of you as jury commissioners; that you will not, knowingly, select any man as a jurymen whom you believe to be unfit and not qualified; that you will not make known to any one the name of any jurymen selected by you, and reported on your list to court, until after the commencement of the next term of this court; that you will not directly or indirectly converse with any one selected by you as a jurymen, concerning the merits of any suit to be tried at the next term of this court, until after said cause may be tried or continued or the jury be discharged.

Jury commissioners.

Their oath.

§ 2. If any person appointed a jury commissioner shall fail or refuse to attend and perform the duties required, without a reasonable excuse, he shall forfeit and pay twenty-five dollars; nor shall the same person act as jury commissioner more than once in the same year.

Penalty for failure to attend.

§ 3. The jury commissioners, after they have been organized and sworn, shall retire to a jury room or some other apartment designated by the judge. They shall be kept free from the intrusion of any person, and not sepa-

Commissioners to retire.

1832.

rate, without leave of the court, until they shall have completed the duties required of them. The clerk shall furnish the commissioners with the names of persons exempted from serving on the petit jury at each term.

How selection
to be made.

§ 4. They shall select from the citizens of the different portions of the county, one hundred persons free from all legal exceptions, of fair character, and approved integrity, of sound judgment, and well informed, to serve as petit jurors at the next term of the court; write the names of such persons on separate pieces of paper, as near the same size and appearance as may be, and fold the same so that the name thereon may not be seen. The names of the one hundred persons, so written and folded, shall then be deposited in a box, and after being well mixed and shaken, the commissioners shall draw from said box the names of twenty-four persons, one by one, and record the same as drawn, upon paper, which shall be certified and signed by them, directed to the judge of the circuit court, and indorsed "a list of the standing jury." They shall also inclose, in like manner, the list of the names of the remaining seventy-six originally selected; which papers they shall deliver to the judge in open court. The two lists shall be sealed and indorsed, and the names of the commissioners written upon the seals, so that the contents cannot be seen without breaking the seals.

Oath of clerk.

§ 5. The judge shall deliver the lists to the clerk, in open court, and administer to the clerk and his deputies the following oath: "You do swear, that you will not open the jury lists now delivered to you until the time prescribed by law; that you will not directly or indirectly converse with any one selected as a petit juror, concerning any suit pending and for trial in this court at the next term, unless by leave of the court." Should the clerk subsequently appoint a deputy in vacation, he shall administer to him the like oath.

Opening of list,
&c.

§ 6. Within thirty days of the next term, and not before, the clerk shall open the envelope, and make out a fair copy of the jury list, and give the same to the sheriff or his deputy, who shall, at least three days prior to the first day of the next term, summon the persons to attend on the second day of said term, as petit jurors, by giving personal notice to each juror, or by leaving a written notice at the juror's place of residence with a free white member of his family, over sixteen years of age. The list shall be returned by the sheriff on the first day of the term, with a certificate thereon, of the date and manner in which each juror was summoned.

Juror failing
to attend.

§ 7. A juror legally summoned, if he fail to attend, without a reasonable excuse, may be fined any sum not less than one nor more than thirty dollars.

§ 8. The court may discharge the regular first pannel of

a jury, after they shall have served one week, and direct another pannel of twenty-four to be summoned for the succeeding week, and so on for each week of the term; said pannel shall be taken from the original list returned by the jury commissioners, in the order in which their names are recorded in said list; in like manner, shall a deficit in any pannel be made up, when a selected jurymen is excused, or fails from any cause to attend on the day specified in the summons.

1850.
Pannel discharged at end of week, &c.

§ 9. In counties where the business and population require it, the court may, by an order, increase or reduce the number of persons to be selected by the jury commissioners, from which the pannel of twenty-four is to be drawn; the number shall not be increased above two hundred or reduced below fifty persons.

Number to be selected by the commissioners.

§ 10. At the commencement of each term of the court at which jury causes may be tried, the judge shall administer to the sheriff and deputies the following oath: You do swear, that without favor or affection, or without a desire to favor or injure the rights of any litigant, you will summon jurors in and for this county, and that to the best of your skill and judgment, you will select discreet, sensible, impartial and sober men; and that you will not, directly or indirectly, communicate or converse with any jurymen, unless under the direction of the court, touching the subject matter of any suit pending for trial at the time. That you will not by any means attempt to influence, advise, or control a jurymen in his opinion in any case under trial.

Oath of sheriff, &c.

§ 11. If, for any cause, the jury commissioners shall not be appointed, or shall fail to select a grand or petit jury, as is provided in this chapter, or the pannel selected shall be set aside, or the jury lists returned in court shall be lost or destroyed, the court shall order the sheriff to summon a grand or petit jury of the proper number, who shall attend and perform the duties thereof, respectively, as if they had been regularly selected.

Where commissioners do not act, &c.

§ 12. No person shall be compelled to serve as a petit jurymen more than one term in any one year.

One term.

§ 13. The judge of any circuit court may, if he deem it expedient, make an order directing the clerk to docket issues for the first day of the term, and order the jury to be summoned to appear on that day; which order he may make and revoke at pleasure.

Issue first day of term.

ARTICLE V.

Mode of selecting a jury to try a cause.

§ 1. Jurors shall be summoned and attend on the second day of the term, unless the court, by its order of record, shall direct them to be summoned for the first day, and also direct jury cases to be docketed for trial on that day. It shall be their duty to give their constant attention at court.

Duty of jurors to attend, &c.

1852.

and not leave the court house while in session without leave of court; for a violation of this duty they may be fined by the court, for a contempt, a sum not exceeding ten dollars for each offense, which fine shall be deducted from the pay of the juror.

Pannel called.

§ 2. On the day the jury shall be summoned to attend court, the pannel shall be called and the names of such as attend shall be entered of record; and any deficiency in the pannel shall be supplied as directed in this chapter.

How jury collected.

§ 3. The clerk shall write the names of the jurors entered of record on separate slips of paper, as near the same size and appearance as may be, and when a jury is wanted for the trial of a cause, the same shall be drawn from a box after the papers shall have been deposited therein and well mixed. The clerk shall provide and keep for that purpose a suitable box with a sliding lid.

Peremptory challenges.

§ 4. In criminal cases, where the defendant is entitled to a peremptory challenge of more than three jurors, the clerk, under the direction of the court, shall draw from the box twelve names who shall compose the jury to try the cause, unless some one or all of them shall be challenged; in which case, the clerk shall draw from the box as many more as may be required, and as often as required, until a jury be obtained, or the whole pannel be exhausted, then the court shall order the sheriff to make up the deficiency from by-standers.

Lists of eighteen to be furnished to each party.

§ 5. In all cases of jury trial the clerk shall draw from the box the names of eighteen of the jury, and write them as drawn on two slips of paper, and deliver one to each party, from which plaintiff and defendant may each strike three, and return the list to the clerk, who shall call the first twelve names not erased, and swear them as a jury to try the case. If any on the list be challenged for cause, others shall be drawn and placed on the list in their stead. In all cases where the jury shall be completed, the names of persons not on the jury shall be returned to the box, from which another jury may be drawn. And whenever, from any cause, it may be necessary to make up a jury, if there be not enough of the standing jury remaining, or in attendance, the court shall order, for the occasion, a sufficient number of by-standers to be summoned to make up a pannel. If a standing juror, for any cause, shall be excused or discharged from the jury, his place shall be supplied from the original list returned.

Attorney fee.

§ 6. In civil suits tried by a jury, no attorney's fee shall be taxed against the unsuccessful party.

Jury fee.

§ 7. Upon the return of a verdict into court by the jury, a dismissal or judgment of nonsuit, or the withdrawal of a jury by consent after it has been sworn, a jury fee of four dollars shall be paid to the clerk by the successful party, in the two first cases, before any execution shall issue on the

judgment. In the latter case the jury fee of four dollars shall be paid by the party plaintiff, and in each case to be taxed as costs.

1852.

§ 8. When a plaintiff sues in *forma pauperis*, no jury fee shall be paid if he is unsuccessful.

In *forma pauperis*.

§ 9. If the successful party shall fail or refuse to pay the jury fee, the opposite party may pay it to the clerk, which shall be credited on the judgment and execution against him.

Defeated party may pay.

§ 10. If the jury fee is not paid to the clerk before the adjournment of court, an order shall be entered up at that or some subsequent term of the court, that execution issue for the same in the name of the commonwealth, to be collected and accounted for by the sheriff, or other officer, as money collected on other executions. Whenever it shall appear to the clerk that the jury fee has been paid on the judgment, execution may be issued. If the party bound for the jury fee be a non-resident, the order and execution for the fee shall be against him and his surety, if any.

When not paid.

§ 11. A petit jurymen shall be paid one dollar for each day he is in attendance upon the court. A grand jurymen shall be paid one dollar per day for the two first days, and fifty cents for any additional day he may serve. The clerk shall not issue to the jurors any certificate of service, but shall, in a book to be kept for that purpose, enter the name of each juror entitled to pay, and the amount to be paid him; by which book the trustee shall be regulated in making payment to jurors; in the book the juror shall sign his name as evidence of payment.

Juror's pay.

§ 12. By-standers summoned and not sworn as jurors, shall be discharged without pay. If sworn, and they shall serve more than one day at any one time; they shall be paid.

When by-standers paid.

§ 13. The court may adjourn the whole or a part of the jury to any day of the term, but they shall not be paid from the time they stand adjourned. The grand jury may be adjourned, in like manner, without pay.

Jury not paid during adjournment.

§ 14. If the challenge of a party to the array shall be sustained, the court may order the whole pannel to be discharged, and a new one to be summoned from by-standers, or a special jury may be summoned to try the suit of such party.

Challenge to array.

ARTICLE VI.

Jury fund and trustee thereof.

§ 1. The fines and forfeitures which have or may accrue by the judgment of the circuit or county courts, justices of the peace, or police judges of the several cities or towns, such portions of the public revenue and taxes, as by order of the circuit court shall be paid to the trustees of the jury fund, and the jury fees assessed and collected, shall constitute the jury fund for each county, for the payment of grand

What constitutes jury fund.

1852.

and petit jurors. That portion of fines or forfeitures given by law to the commonwealth's attorney, or the prosecutor, and the fines for violating the police laws of any city or town, and the fines and forfeitures adjudged by the city court of Louisville, are not included in this section.

Judge to ap-
point trustee,
&c.

§ 2. A trustee of the jury fund shall be appointed by the circuit court in each county, who shall hold his office for the term of four years, and until his successor is qualified. He shall give covenant with good surety, and renew the same every second year, to be examined and approved by the attorney for the commonwealth and circuit judge, faithfully to discharge the duties of trustee of said fund, and to account for and pay over all public money which may come to his hands. The circuit court shall have power to remove the trustee, and appoint another, whenever the public interests may, in its opinion, require it. The covenant shall be recorded in the order book, the original filed, and a certified copy transmitted forthwith to the auditor of public accounts by the clerk.

He shall pay
jurors.

§ 3. The trustee of the jury fund shall attend the court, and pay the jurors, in proper person, the full compensation allowed them by law, which fact he shall verify by his oath, in open court, when he makes his report. The court shall have power to compel the trustee to discharge the duties of his office, by fine and imprisonment.

Executions;
postage.

§ 4. Justices of the peace, and police judges and clerks, shall issue executions, and renew the same from time to time, for all fines and forfeitures, until the same shall be collected. The trustee of the jury fund may pay out of said fund the postage on all process issued for the collection of fines to other counties, and all other process of the circuit court in behalf of the commonwealth, in criminal and penal cases. He shall be entitled to receive all fines and forfeitures which constitute a part of said fund.

Officers to pay
fines to trustee.

§ 5. It shall be the duty of all civil officers and others having fines and forfeitures or other funds in their hands, belonging to said fund, to pay the same to the trustee of the jury fund, as soon as received. They shall make their settlement with the trustee up to and on the first day of each circuit court. The trustee shall report, on the second day of each term, the amount of fines received since his last report, from whom, for what, and when received; the amount paid out by him, to whom, for what, and when paid; what officers have failed to report or settle with him—verified by oath. The court shall forthwith summon and fine the delinquents any sum not exceeding thirty dollars, and compel them to report and settle.

His report.

Justices, mar-
shals, &c., to
report and pay
over fines.

§ 6. Justices of the peace, police judges, city and town marshals, shall report, on the first day of each circuit court, a list of all fines imposed or collected by them since

their last report, and pay over all moneys in their hands belonging to the jury fund, to the trustee thereof.

§ 7. Circuit, city, and county court clerks shall, at the expiration of each term of their respective courts, make to the trustee a report of all fines imposed by their respective courts, and pay over any funds in their hands belonging to said fund. Clerks and sheriffs shall, on the first day of the term of the circuit court, settle with the trustee and pay over to him the funds in their hands which belong to said fund. The trustee of the jury fund shall superintend and control the collection of all fines and money belonging to said fund.

§ 8. The clerks of the county and circuit courts shall report on the second day of the term of each circuit court, in writing, verified by their oath, the amount of public money in their hands, from whom, and for what received; a copy of which report they shall transmit to the auditor of public accounts, who shall, after deducting five per cent., clerk's commission for collecting, charge the clerk with the remainder. The court may order the whole, or any part thereof, to be paid to the trustee of the jury fund, whose receipt on a copy of the order shall entitle the clerk to a credit for the amount. The auditor shall prescribe the form of the reports to be made by clerks. If the jury fund be still inadequate to meet the demands upon it, the court shall order the sheriff to pay the trustee a sum sufficient, out of the revenue collected by him, whose receipt on a copy of the order shall entitle the sheriff to a credit in his settlement with the auditor.

§ 9. The clerks of the circuit court shall, on the first day of October in each year, make out three copies of the lists of fines and forfeitures imposed in their respective counties, including those reported by the justices of the peace and others the preceding year, one of which to be transmitted to the auditor, one for the use of the trustee, and the other to be filed with the reports of the trustee.

§ 10. The trustee of the jury fund shall settle his accounts under the supervision of the attorney for the commonwealth, at the close of each term of the circuit court. He shall be charged with all sums received by him since the last settlement, showing by said charge from whom, for what, and when received, as also with any balance which may have been in his hands at the last settlement, and credited with all sums legally paid out by him, for what, to whom, and when paid, and credited also with a commission of five per cent. upon all such sums so paid out. The settlement shall exhibit the state and condition of the fund, which settlement, when attested by the attorney of the commonwealth, and after being examined and approved by the court, shall be recorded by the clerk in a book to be

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Clerk to report fines, &c., to trustee.

Court may order public money in clerk's hands to be paid to trustee.

Clerks to make lists of fines, &c.

Settlement of trustee's accounts.

1852.

Deficiency in
fund.

provided and kept for that purpose, and a copy transmitted to the auditor of public accounts.

§ 11. If the fund proves deficient by this settlement, the deficiency shall be certified to the auditor of public accounts, and paid to the trustee out of the public treasury. All balances remaining in the hands of the trustees shall be paid into the treasury by the first day of January in each year. The auditor shall prescribe the form of the settlement and report of the trustee's accounts.

In Jefferson,
to settle every
month.

§ 12. The trustee of the jury fund of the Jefferson circuit court shall settle his accounts at the end of each month, and perform the duties required of other trustees in the preceding section.

Auditor's war-
rant.

§ 13. The auditor shall issue no warrant for any deficiency, unless a copy of the trustee's settlement has been filed in his office.

Buying jury-
man's claim.

§ 14. If a trustee of the jury fund, sheriff, or deputy sheriff, clerk of the court, or other officer, shall, directly or indirectly, buy or contract for the claim for the services of any grand or petit jurymen, they shall severally forfeit and pay fifty dollars, one half to any person suing for the same, or the same may be recovered by indictment in the circuit court, to which no prosecutor shall be required.

Auditor to re-
port.

§ 15. The auditor shall report to the legislature the annual income and expenditures of the jury fund.

Duty of judge
and common-
wealth's attor-
ney.

§ 16. It shall be the duty of the judges to know that the trustees of the jury fund faithfully apply the money in their hands to the payment of the grand and petit jurors, and to see that they settle their accounts and perform faithfully their other duties, and to remove them for any dereliction of duty. The attorney of the commonwealth shall cause the appropriate proceedings to be instituted against any defaulting or derelict trustee.

Clerk's report.

§ 17. The clerks, when they certify and report to the auditor the list of claims ordered to be paid out of the treasury, shall also certify the amount of all deficiencies in the jury fund, and how the same have been supplied.

§ 18. The trustees of the jury fund, and all other officers and persons failing to comply and to perform the duties required of them by this chapter, or violating its provisions, where there has not been prescribed in this chapter a different penalty, shall be fined for each offense any sum not exceeding five hundred dollars.

ARTICLE VII.

Clerks' fees for services performed under the provisions of this chapter.

Clerk's fee bill,
how allowed &
certified.

§ 1. The circuit court clerks, at the fall term of their respective courts, shall make out their fee bill for services rendered the commonwealth under the jury law. The attorney for the commonwealth shall examine the fee bill;

and if in accordance with the fees allowed by this chapter, he shall certify the same to the court, who shall order the trustee of the jury fund to pay the same, which fee bill shall be copied and certified to the auditor with the jury fund report.

1852.

§ 2. The following shall be the allowances to the clerks, and no more :

Fees.

For order appointing and swearing jury commissioners,	- - - - -	25 cents.
Furnishing to jury commissioners names of persons exempted from service,	- - - - -	25 "
Recording receipt of envelope of sealed return, and the oath of clerk and deputy,	- - - - -	25 "
Certified list of jurors to sheriff,	- - - - -	25 "
Filing the same when returned by the sheriff, and placing names of jurors on slips of paper,	- - - - -	25 "
Order excusing juror—(if more than one be excused at the same time, no more,)	- - - - -	25 "
Noting the names of the standing jurors on the order book,	- - - - -	25 "
Order for sheriff to summon other jurors,	- - - - -	10 "
Noting on the order book the allowance to each juror,	- - - - -	2 "
Certifying allowance to the trustee of the jury fund for each juror,	- - - - -	2 "
Recording settlement of trustee, copy and certifying same to auditor, and for all services incident thereto,	- - - - -	75 "

§ 3. In no case shall the trustee of the jury fund be allowed, for any services rendered under the jury law, more than five per cent. on the amount paid out by him according to law.

Trustee's compensation.

CHAPTER LI. CHAMPERTY AND MAINTENANCE.

§ 1. All contracts, agreements, and conveyances made in consideration of the services to be rendered in the prosecution or defense, or the aiding in the prosecution or defense, in or out of court, of any suit by any person not a party on record in such suit, whereby the thing sued for or in controversy, or any part thereof, is to be taken, paid, or received, by such person, for his services or assistance, shall be null and void.

Certain contracts void.

§ 2. All sales or conveyances, including those made under execution, of any lands, or the pretended right or title to the same, of which any other person, at the time of such sale, contract, or conveyance, has adverse possession, shall be null and void. Nothing in this section shall render void a devise of land in adverse possession. A petition in equi-

Sales of land in adverse possession, void.

1852.

Title subject-
ed in equity.

ty by a judgment creditor, after a return of execution of no property found, may be filed to subject the title of the defendant to any real estate to which he may have title, legal or equitable, though the same may be in the adverse possession of another, to which procedure the person in possession shall be made a defendant.

Title forfeit- d
by champertous
contract.

§ 3. All contracts to prosecute a suit for the recovery of any lands in the adverse possession of another, for the whole or part of the land thus possessed, or for the whole or any part of the profits thereof, shall be null and void; and the parties to such contract shall forfeit all right, interest, or claim, in or to the land claimed under such pretended right or title; also, all right to maintain any suit at law, or in equity, upon such pretended right or title, and such right, title, or claim shall vest in the commonwealth, and inure to the benefit of the person in possession, without office found.

Defendant may
prove such con-
tract, in bar of
suit.

§ 4. The person in the adverse possession, according to the provisions of the second and third sections of this chapter, his personal representatives, heirs, or assigns, or the person under whom such occupant claims or holds, his personal representatives, heirs, or assigns, may give in evidence, under the general issue, or may plead the sale or purchase of any pretended right or title in violation of the second section of this chapter, or any contract or agreement made in violation of the third section of this chapter, in bar of any suit or action against them to recover the possession or title to the land so held.

Parties may
be sworn.

§ 5. The parties in possession, or their representatives or assigns, or the person under whom the occupant claims or holds the land, or his representatives, may, the better to avail themselves of the provisions of this chapter, swear the parties, whether plaintiffs or not, to every such contract, and compel them to give evidence upon the trial, or may compel a discovery on oath by bill in chancery. The person so compelled to give evidence, or to make discovery under this section, shall not be subjected by such discovery to any penal or criminal prosecution, for the offense of champerty and maintenance, nor shall such evidence or discovery be used in any such prosecution.

Persons in pos-
session may pur-
chase adverse ti-
tle.

§ 6. Persons in possession may purchase in the adverse outstanding title or claim, and such purchase shall be good and inure to the benefit of the person making the same, or to the person under whom he claims and holds the lands so possessed.

To whom for-
feitures do not
apply.

§ 7. None of the forfeitures declared by this chapter shall apply to cases of controversy between lessor and lessee, mortgagor and mortgagee, vendor and vendee, trustee and *cestui que trust*.

§ 8. Neither party to any contract made in violation of

the provisions of this article, shall have any right of action or suit thereon.

1852.

CHAPTER LII.

BOUNDARY, SOVEREIGNTY, AND JURISDICTION OF THE STATE OF KENTUCKY.

The boundary of the state of Kentucky is to be ascertained—*First*. By reference to the deed of cession of territory north-west of the Ohio river by the commonwealth of Virginia, to the congress of the United States, dated the first day of March, 1784. *Second*. By the act of the Virginia legislature, known as the "compact with Virginia," entitled "an act concerning the erection of the district of Kentucky into an independent state, passed the 18th day of December, 1789. *Third*. By the act of the Virginia legislature of 1776, by which the county of Fincastle was divided, and three additional counties established, viz: Kentucky, Washington, and Montgomery; and *Fourth*. By reference to arrangements made between Virginia and Kentucky, and between Kentucky and the state of Tennessee. (a) (b) (c)

How boundary
ascertained.

(a) The state of Kentucky covers a portion of the territory, that under the colonial system constituted the county of Augusta, in Virginia.

The county of Augusta was formed in 1738, in the 12th year of George II, by an act of the colonial legislature, then held at the capitol in Williamsburg. For the boundary of the same, see Hening's Statutes at Large, volume 5, page 79.

In 1769, in the 10th year of George III, the county of Augusta was divided, and the county of Botetourt carved out of the same. For the boundary of Botetourt county, see Hening's Statutes at Large, volume 1, page 395.

In 1772, in the 12th year of George III, the county of Botetourt was divided, and the county of Fincastle carved out of the same. For the boundary of the county of Fincastle, see Hening's Statutes at Large, volume 8, page 600.

In 1776, in the first year of the commonwealth of Virginia, the county of Fincastle was divided into the three counties, Kentucky, Washington, and Montgomery. The boundary of Kentucky, as given in the act, is as follows: "All that part thereof which lies to the south and westward of a line beginning on the Ohio, at the mouth of Great Sandy creek, and running up the same and the main and north easterly branch thereof to the Great Laurel Ridge or Cumberland Mountain, thence south westerly along the said mountain to the line of North Carolina, shall be one distinct county, and called and known by the name of KENTUCKY." See Hening's Statutes at Large, volume 9, page 257. 1 Litt. Laws of Kentucky, page 626.

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Western bound-
ary.

The legislature of Virginia, in the organization of counties on the western border of the state, prior to the act of cession, never gave them a definite boundary westwardly,

(b) AN ACT establishing the boundary line between the state of Virginia and this Commonwealth. Approved December 12th, 1799.—2 *Litt.* 276.

WHEREAS, Commissioners appointed by the state of Virginia and this commonwealth, did, in order to ascertain and establish the boundary line between the said states, on the fourteenth day of October last, enter into a written agreement under their hands and seals, which is in the following words, to-wit :

“The commissioners for ascertaining and adjusting the boundary lines between the states of Virginia and Kentucky, appointed pursuant to the act of separation between the two states, to-wit : Archibald Stewart, General Joseph Martin and Creed Taylor, Esquires, on the part of the former; and John Coburn, Robert Johnson and Buckner Thruston, Esquires, on the part of the latter, having this day met at the forks of Great Sandy river, according to appointment, and taken into consideration the said act of separation, have, and by these presents do unanimously agree and declare, that the boundary line between the said states, is and shall be and remain as followeth, to-wit : To begin at the point where the Carolina, now Tennessee, line crosses the top of the Cumberland mountain, near Cumberland Gap; thence north-eastwardly along the top, or highest part of the said Cumberland mountain, keeping between the head waters of Cumberland and Kentucky rivers, on the west side thereof, and the head waters of Powell's and Guest's rivers, and the pond fork of Sandy, on the east side thereof, continuing along the said top, or highest part of said mountain, crossing the road leading over the same at the Little Paint Gap, where by some it is called the Hollow mountain, and where it terminates at the west fork of Sandy, commonly called Russell's fork; thence with a line to be run north forty-five degrees east till it intersects the other great principal branch of Sandy, commonly called the north-eastwardly branch; thence down the said north-eastwardly branch to its junction with the main west branch, and down main Sandy to its confluence with the Ohio. And whereas doubts have heretofore prevailed which of the main branches of Sandy the act for dividing the county of Fincastle, (which is the act referred to for the line between the two states,) meant and intended that the line should run up, and locators have been led into errors in entering their land warrants; it is therefore unanimously further agreed between the said commissioners, that no land claims founded on entries within the forks of Sandy, or east of the Cumberland mountain on the waters of Sandy, previous to the first day of October, one thousand seven hundred and ninety-nine, on either side of the before mentioned line to be run from the end of the said Cumberland mountain to intersect the said main north-eastwardly branch of Sandy, ought to be in any wise affected by said doubts which have existed respecting the said line; but that the said claims ought to remain valid and secure as if no such doubts had existed, or as if the said territory had been within the acknowledged limits of either state, that is to say, that all entries of land made in the offices of either state, which by this adjustment of the line falls into the other, shall be as valid as

but left them to be bounded by the western limits of the charter granted by the British sovereign. This deed of cession, for the first time, marked the western boundary of the

1852.

if made in the offices of that state, which by this adjustment of the line falls into the other, shall be as valid as if made in the offices of that state in which the land lies; and that it be recommended to the said states to pass mutual laws for the ratification of the said claims pursuant to the meaning and intent of this agreement between us; and that until such laws shall be passed, this instrument shall not be in force, but shall take full effect immediately after the passage of such laws."

And whereas this commonwealth does approve of and is willing to ratify and confirm the said agreement on its part.

Be it therefore enacted by the General Assembly, That the boundary line, as ascertained and described in the said agreement, is hereby ratified and confirmed; and all entries for lands made in the offices in the state of Virginia, previous to the first day of October, 1799, lying in the forks of the Sandy or east of the Cumberland mountain on the waters of Sandy, which by the establishment of the boundary line as aforesaid, do fall within the limits of this state, shall be as good and valid as if they had been made in the proper offices of this commonwealth.

This act shall commence and be in force so soon as the state of Virginia shall, in conformity to the aforesaid agreement, on its part, pass a similar law.

(c) AN ACT to ratify and confirm the adjustment of the boundary line between this State and the State of Tennessee, according to the articles of stipulation entered into by the Commissioners appointed by both States. Approved Feb. 11. 1820.—*Session Acts*, p. 922.

Whereas, commissioners appointed by the state of Tennessee, with full powers to settle and adjust the boundary line between said state and this commonwealth, have entered into an agreement with commissioners appointed on the part of this state to confer with said commissioners appointed by the state of Tennessee, which agreement, reduced to writing, bearing date the second day of February, one thousand eight hundred and twenty, and signed with the names, and under the seals of the commissioners of both states, in the words and figures following, to-wit:

The states of Kentucky and Tennessee, desirous of terminating the controversy which has so long subsisted between said states in relation to their common boundary, and of restoring the most perfect good understanding and harmony between them, have, for that purpose, appointed their respective commissioners, that is to say: The state of Kentucky on her part has appointed Jno. J. Crittenden and Robert Trimble; and the state of Tennessee on her part has appointed Felix Grundy and William L. Brown, who, after a reciprocal communication of their respective powers, have agreed upon the following articles and stipulations:

ARTICLE I.

The line of boundary and separation between the states of Kentucky and Tennessee, shall be as follows, to-wit: The line run by the Virginia commissioners, in the year seventeen hundred and

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state. By that instrument she ceded to the United States, for the common use and benefit of all the states, Virginia inclusive, "all right, title, and claim, as well of soil as of

seventy-nine, and seventeen hundred and eighty, commonly called Walker's line, as the same is reputed, understood, and acted upon by the said states, their respective officers and citizens, from the south-eastern corner of Kentucky to the Tennessee river; thence with and up said river to the point where the line of Alexander and Munsell, run by them in the last year, under the authority of an act of the legislature of Kentucky, entitled, "An act to run the boundary line between this state and the state of Tennessee, west of the Tennessee river, approved February 8th, 1819," would cross said river; and thence with the said line of Alexander and Munsell, to the termination thereof on the Mississippi river below New Madrid.

ARTICLE II.

It is agreed and understood, that from the point where Walker's line strikes the Tennessee river, to the point where the line of Alexander and Munsell would cross the same, the said Tennessee river shall be the common boundary of said states, and subject to their common use and concurrent jurisdiction. Any island or islands in that part of the river Tennessee, which forms the common boundary between the two states, shall be within the exclusive jurisdiction of Kentucky; but any appropriations thereof by individuals, heretofore made under the laws of North Carolina or Tennessee, shall be valid.

ARTICLE III.

Whenever the governor of either state shall deem it expedient to have the boundary between the two states, which is east of the Tennessee river, or any part thereof, run and plainly marked, he shall cause a notification thereof to be communicated to the governor of the other state, and thereupon with all convenient dispatch, two surveyors shall be appointed for that purpose, one by the governor of each state; and the surveyors so appointed shall have power to employ a competent number of chain-carriers and assistants, and they shall ascertain, survey, and mark said line plainly and durably, having due respect to the provisions of the first article hercof; and it shall be the duty of said surveyors to make out and sign duplicate plats and reports of their surveys and proceedings to be communicated by each surveyor to the governor of his respective state, to be deposited and preserved in the office of secretary of state, for a testimony and memorial of the boundary between said states. And all cost and expense that may be incurred under the provisions of this article, and in surveying and marking said boundary line, shall be paid by said states, jointly and equally.

ARTICLE IV.

The claims to lands lying west of the Tennessee river, and north of Alexander's and Munsell's line, derived from North Carolina or Tennessee, shall be considered null and void; and claims to lands lying south of said line and west of Tennessee river, derived from Virginia or Kentucky, shall in like manner be considered null and void.

jurisdiction, which the said commonwealth had to the territory or tract of territory within the limits of the Virginia charter, situated, lying and being to the north west of the

1852.

ARTICLE V.

All lands now vacant and unappropriated by any person or persons claiming to hold under the states of North Carolina or Tennessee, east of the Tennessee river, and north of the parallel of latitude thirty-six degrees thirty minutes north, shall be the property of, and subject to the disposition of the state of Kentucky, which state may make all laws necessary and proper for disposing of and granting said lands, or any part thereof, and may, by herself or officers, do any acts necessary and proper for carrying the foregoing provisions of this article into effect; and any grant or grants she may make therefor, or any part thereof, shall be received in evidence in all the courts of law and equity in the state of Tennessee, and be available to the party deriving title under the same; and the land referred to in this article, shall not be subject to taxation by the state of Tennessee for five years, except so far as the same may, in the meantime, be appropriated by individuals.

ARTICLE VI.

Claims to lands east of the Tennessee river between Walker's line and the latitude of thirty-six degrees thirty minutes north, derived from the state of Virginia in consideration of military services, shall not be prejudiced in any respect by the establishment of Walker's line; but such claims shall be considered as rightfully entered or granted, and the claimants may enter upon said lands, or assert their rights in the courts of justice without prejudice by lapse of time, or from any statute of limitations for any period prior to the settlement of the boundary between the two states; saving, however, to the holders and occupants of conflicting claims, if any there be, the right of showing such entries or grants to be invalid and of no effect, or that they have paramount or superior titles to the land covered by such Virginia claims.

ARTICLE VII.

All private rights and interests of lands between Walker's line from the Cumberland river near the mouth of Obey's river to the south-eastern corner of Kentucky, at the point where the boundary line between Virginia and Kentucky intersects Walker's line on the Cumberland mountain, and the parallel of thirty-six degrees thirty minutes north latitude, heretofore derived from Virginia, North Carolina, Kentucky, or Tennessee, shall be considered as rightfully emanating from either of those states; and the states of Kentucky and Tennessee reserve to themselves, respectively, the power of carrying into grant, claims not yet perfected; and in case of conflicting claims, if any there be, the validity of each claim shall be tested by the laws of the state from which it emanated, and the contest shall be decided as if each state, respectively, had possessed the jurisdiction and soil, and full power and right to authorize the location, survey, or grant, according to her own rules and regulations.

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Ohio river." This act of cession limited the western boundary and jurisdiction of Virginia to the north west bank of the Ohio river. Virginia retained the sovereign right and jurisdiction over the entire bed of the Ohio river within her chartered lines.

County of Ken-
tucky.

The act establishing the county of Kentucky, above referred to, thus describes the boundary of the same: "All that part thereof, (that is, of the county of Fincastle,) which

ARTICLE VIII.

It is agreed that the foregoing articles shall receive the most liberal construction for effecting the objects contemplated, and should any disagreement arise as to the interpretation, or in the execution thereof, two citizens of the United States, but residents of neither Kentucky nor Tennessee, shall be selected, one by the executive of each state, with power to choose an umpire in case of disagreement, whose decisions shall be final on all points to them submitted.

ARTICLE IX.

Should any further legislative acts be requisite to effectuate the foregoing articles and stipulations, the faith of the two states is hereby pledged, that they will unite in making such provisions, and respectively pass such laws as may be necessary to carry the same into full and complete effect.

ARTICLE X.

The foregoing articles and stipulations, if ratified by the legislature of Kentucky during their present session, shall forever be obligatory and binding on both states, and take effect from this day.

In faith whereof, we, the respective commissioners, have signed these articles, and have hereunto affixed our seals. Done in duplicate, at Frankfort, the second day of February, one thousand eight hundred and twenty.

JOHN J. CRITTENDEN,	[SEAL.]
ROBERT TRIMBLE,	[SEAL.]
FELIX GRUNDY,	[SEAL.]
WILLIAM L. BROWN,	[SEAL.]

And whereas, this commonwealth does approve and is willing to ratify and confirm each and every article and stipulation of the said agreement. Therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the boundary line between the state of Tennessee and this commonwealth, as described in said agreement, subject to be run and marked as therein provided, shall be and the same is hereby ratified and confirmed.

SEC. 2. *Be it further enacted,* That each and every article and stipulation of said agreement, either relating to the boundary line between the said states, or to the land claims of individuals, or to vacant and unappropriated lands, or to any other subject matter in said agreement contained, shall be and the same are hereby ratified and confirmed, and shall be regarded in all courts of justice in this commonwealth, as the law of the land.

lies to the south, and westward of a line beginning on the Ohio river, at the mouth of Great Sandy creek, and running up the same, and the main and north-easterly branch thereof, to the great Laurel ridge, or Cumberland mountain, and thence south-westerly along the said mountain to the line of North Carolina." This boundary constituted what was the district of Kentucky on the 18th of December, 1789, as limited on the northwestern boundary by the act of cession by Virginia to the United States, in 1784. What was the main and north-easterly branch of Great Sandy, and what was the particular line of the great Laurel ridge, or Cumberland mountains, subsequent to the admission of Kentucky into the union as an independent state, became matter of dispute between Virginia and Kentucky. To settle and adjust this dispute, the two states appointed commissioners with full powers to settle all questions of doubt and difficulty as to the boundary between the two states. The commissioners agreed upon the following line: To begin at the point where the Carolina (now Tennessee) line crosses the Cumberland mountains, keeping between the head waters of Cumberland and Kentucky rivers, on the west side thereof, and the head waters of Powell's and Guest's rivers, and the pond fork of Sandy on the east thereof, continuing along the top or highest point of said mountain, crossing the road leading over the same, at the Little Paint gap, where by some it is called the Hol-low mountain, and where it terminates at the west fork of Sandy, commonly called Russell's fork; thence with a line to be run north, forty-five degrees east, till it intersects the other great principal branch of Sandy, commonly called the north-eastwardly branch thereof; thence down the said north-eastwardly branch to its junction with its main west branch, and down main Sandy to its junction with the Ohio.

1832.

Disputes.

Agreed line.

The line which divided Virginia and North Carolina, was the southern boundary of the state of Kentucky. Virginia and North Carolina, prior to the creation of the states of Kentucky and Tennessee, appointed commissioners, Messrs. Walker and Henderson, to run and mark the line on the parallel of latitude thirty-six degrees thirty minutes. From a point on the top of the Cumberland mountains, now the south-eastern corner of the state of Kentucky, the commissioners jointly did not run the line west. One of the commissioners (Mr. Walker,) run and marked the line to a point on the Tennessee river. This line, called Walker's line, was regarded for many years as the dividing line between the states of Kentucky and Tennessee. It was ascertained, however, that the line as run and marked by Walker was north of latitude thirty-six degrees thirty minutes. After the Indian title to the land west of the Tennessee river was extinguished by the treaty of 1819, the legislature

Line of Vir-
ginea and North
Carolina.

Walker's line.

1892.

Line settled.

Boundary on
the Ohio river.Boundary de-
clared.

of Kentucky appointed Robert Alexander and Luke Munsell to ascertain the true point of latitude thirty-six degrees thirty minutes on the Mississippi river, and to run and mark a line east upon that parallel. This was done as far east as the Tennessee river. The two states subsequently appointed commissioners, vested with full powers to settle and adjust all matters concerning the boundary between them. The commissioners entered into an agreement, which was subsequently ratified by the legislatures of the two states, and the line therein described has been ever since the southern boundary of the state of Kentucky. The supreme court in the case of *Handley's lessee vs. Anthony*, 5 Wheaton, 375, and the court of appeals in the case of *Fleming vs. Kenny*, 4 J. J. M., 158, have decided that the boundary and jurisdiction of the state of Kentucky extend to low water mark on the western or north-western side of the river Ohio. What effect the 11th section of the compact with Virginia has upon the question of concurrent jurisdiction of the states of Ohio, Indiana, and Illinois over that portion of the Ohio river which forms the common boundary between them and Kentucky, has not been declared by any legislative act or judicial decision of the court of Kentucky.

§ 1. The boundary of the state of Kentucky is declared to be as follows: Beginning at seven pines and two black oaks on the top of Cumberland mountain, on the Tennessee line, where it crosses said mountain, one mile and a half and twelve poles southwardly of the Cumberland gap; thence with Walker's old marked line south 86 deg. west, by the magnetic meridian, crossing the left hand fork of Yellow creek at one mile, crossing Mingo mountain, and then crossing Bennett's fork of Yellow creek at five miles; then Log mountain, crossing Bowman's fork of the Clear fork of Cumberland at nine miles; the Trace fork at twelve miles; Buffalo at fifteen; the Laurel fork at eighteen miles; Tom's creek at nineteen miles; and Primroy at twenty-one miles; then crossing Pine mountain, and the Clear fork of Cumberland river, in the Lot at twenty-five miles; then crossing the Hackle knob to the Elk fork at twenty-eight miles; Indian creek at twenty-nine miles; then Gillioo mountain and Gillico creek at thirty-three miles; and the right hand fork of Gillico at thirty-six miles; Rock creek at forty-one miles; Marsh creek at forty-seven miles; the Roaring Pouch at forty-nine miles; Bear creek at fifty-four miles; the Big South fork of Cumberland at fifty-eight miles; Rock creek at sixty-eight miles; the left hand fork of the Little South fork at seventy-six miles; passing the Chimney or Pilot rock at seventy-eight miles; crossing the Poplar mountain into Stockton's valley at eighty-seven miles; and Pike's turnpike road at ninety miles; then crossing Wolf river six times; then Sulphur Lick creek at

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one hundred and four miles ; Kettle creek at one hundred and twelve miles ; in all, one hundred and fourteen miles, to three hackberry trees on the bank of Cumberland river, opposite the point where Walker's old line strikes the west bank of Cumberland river, and about twenty-four poles above the house occupied by John Kerr in 1821 ; thence west with Walker's old line to the Tennessee river ; thence with and up said river to the point where the line run by Alexander and Munsell, in 1819, strikes said river ; the river being the common boundary between the two states, and subject to their common use and concurrent jurisdiction ; and thence with the line run by Alexander and Munsell, on the parallel of lat. 36 deg. 30 min., to the middle of the channel of the Mississippi river, opposite the point on the Mississippi below New Madrid, fixed, marked, and ascertained by them as the point of intersection of said parallel of latitude and said river ; thence up said river to the mouth of the Ohio river ; thence crossing the Ohio river to the north-west bank, at low water mark ; thence up the north-western bank of said river at low water mark, to a point opposite the mouth of the Big Sandy river ; thence across the Ohio river, and up the said Sandy river, to the mouth of the main western branch of Sandy ; thence up the north-eastwardly branch to a point on said branch from which a line drawn south 45 deg. west, will strike the road over the Cumberland mountains at the Little Paint gap, by some called the Hollow mountain, where it terminates at the west fork of Sandy, commonly called Russell's fork ; and thence, continuing on the top or highest point of said mountain, keeping between the head waters of the Kentucky and Cumberland rivers on the right, and the head waters of Powell's and Guest's rivers on the left, to the beginning on the said Cumberland mountain.

§ 2. The sovereign power and jurisdiction of the commonwealth of Kentucky extends to and over the entire soil and water within the limits described in the preceding section, except so far as she may have ceded jurisdiction to the United States for national purposes.

Power and jurisdiction.

§ 3. Each county in this commonwealth, whose boundary is described in part by the Mississippi and Ohio rivers, shall be considered as bounded in that particular by the state line ; and the islands thereof shall be within the respective counties holding the main land opposite thereto, within this state ; and the several counties and tribunals thereof shall hold and exercise jurisdiction accordingly.

Counties bordering on the Ohio and Mississippi.

ARTICLE II.

§ 1. The great seal of the commonwealth of Kentucky shall have upon it the device two friends embracing each other, with the word "*Kentucky*" over their heads, and round about them the words "*United we stand, divided we fall.*"

Great seal.

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CHAPTER LIII.

ESCAPES.

Warrant to be
issued for per-
son escaped.

§ 1. If any person rendered or charged in custody, in execution or on mesne process, or by any order of a judge or chancellor, made in or out of court, shall escape therefrom, or from the officer having him in custody, a justice of the peace of the county, upon complaint and affidavit made of the fact, shall issue as many warrants for his recapture, directed to all sheriffs and constables, and other officers within this state, as he may deem necessary. The cause of the person's commitment shall be mentioned in said warrant. Sheriffs and constables shall be also commanded to recapture the prisoner and forthwith to convey and commit him to the prison of that county whence he escaped, to be there safely kept until discharged by due course of law. The warrant, with his return thereon indorsed, the sheriff or constable, or other officer shall return to the office of the clerk of that court having jurisdiction of the cause for which the prisoner was in custody.

When escape
is from custody
upon execution.

§ 2. If the prisoner was in custody by virtue of execution or final process when he escaped, he shall remain in close jail, without bail or mainprize, until he shall satisfy the said demand, or until the judgment or decree shall be reversed, or he be discharged by due course of law.

When upon
mesne process.

§ 3. If the prisoner was in custody by mesne process or other original procedure, he shall remain in confinement, after his recapture, until released by due course of law.

When for
treason, felony,
&c.

§ 4. If the prisoner was in custody on a charge of treason, felony, breach of the peace, or misdemeanor, he shall, upon being recaptured, be conveyed by the officer who apprehends him to the jail of the county from which he escaped, and there remain confined until discharged by due course of law.

Liability of of-
ficers.

§ 5. Officers and their sureties shall be liable, in an action upon their official bonds, for the use of the parties aggrieved, for the voluntary or negligent escape of a prisoner in custody, for the damages sustained. No judgment in such action shall be given, unless the jury shall, by their verdict, find "that the escape was with the consent of the officer, or by his negligence, or that such prisoner might have been retaken if the officer had, in good faith, made proper efforts to do so."

Liability for
aiding escapes.

§ 6. If any person shall aid a prisoner to escape, or shall knowingly conceal him after he escapes, or in any way hinder or prevent his recapture, he shall be liable to the party aggrieved for such damages as he may have sustained.

CHAPTER LIV.

STRAYS.

ARTICLE I.

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§ 1. Stray cattle may be taken up and posted by any freeholder by legal or equitable title, by a tenant of an unexpired lease for not less than three years, or a keeper of a toll-gate, when found on their respective places of residence.

By whom taken up, &c.

§ 2. Stray horses, mules, jacks, or jennets may be posted at any time. Other stray cattle shall not be taken up or posted between the first day of April and the first day of November, unless taken within the enclosure of the taker up, having broken into the same.

Where taken up.

§ 3. The absolute property in a stray horse, mule, jack, or jennet, shall be vested in the taker up at the expiration of two years after the justice shall have received the evidence of the valuation and administered the oath to the taker up. The like right in other stray cattle shall be vested in the taker up after the expiration of twelve months from the day the same shall have been posted.

When right of property to vest in taker up.

§ 4. The taker up of any stray cattle shall be bound to pay to the owner the valuation of the same, if the stray be a horse, jack, jennet, or mule, upon due and legal proof of his right to the same, at any time within three years from the day the right of property in the stray shall have been vested in the taker up. The valuation of all other stray cattle to be paid in like manner, upon proof of ownership, at any time within one year after the right of property is vested in the taker up. If the stray shall die or escape from the possession of the taker up before the owner shall have claimed the same, he shall not be bound to pay the valuation or account for the stray. The proof of such death or escape shall rest upon the taker up.

When valuation to be paid to owner.

§ 5. If the taker up of any cattle shall, either before or after the same be posted, alter the marks or brands of the same, or shall trade, sell, or remove the same out of the state, kill or destroy the same, if the stray be a horse, mule, jack, or jennet, within two years after the same has been posted, if of other cattle, within twelve months after the day the same was posted, he shall, upon conviction, be fined fifty dollars for each offense.

Fine for altering marks, &c.

§ 6. Strays shall be taken up and posted in the following manner:

1. If a horse, mule, jack, or jennet, over two years, be taken up, the same shall be taken before a justice of the peace of the district, whose duty it shall be to administer to the taker up an oath, in substance, that said animal was taken up by him as a stray on his premises or place of residence within the ten days next preceding; that he has not changed, defaced, or altered the marks or brands of the

Duty of justice before whom stray horse, mule, &c., is taken.

1852.

animal. The justice shall then value the stray himself, shall take a correct description of the flesh marks, ages and brands of the same, all of which, together with the name and residence of the taker up, he shall record in a book to be kept by him for that purpose, and give to the taker up a copy of the same, and also deliver to the clerk of the county court a certified copy of the same record within thirty days, for the whole of which service he shall be paid by the taker up fifty cents.

Clerk to record and post.

2. The clerk shall immediately record the stray note or certificate aforesaid of the justice, in a book to be kept by him for that purpose, and he shall cause a true copy of the same to be posted at the door of the court house at the next two succeeding court days of his county. His fee for the whole of which service shall be fifty cents, to be paid by the taker up.

Publication.

3. The taker up shall, within one month after he has posted the stray, cause to be published for one month, or by four weekly insertions, a copy of the justice's certificate in a newspaper, if one be published in the county.

When stray under two years old.

4. If the stray be under two years old, the justice shall, in addition to the oath hereinbefore required, take, on the oath of said taker up, a description of the stray, and also the oath of some honest housekeeper, of the value of the same, and proceed as hereinbefore directed when the stray is over two years old.

Other cattle.

5. If the stray be of other cattle, the like oath shall be administered by the justice to the taker up, and the stray shall be valued and described by a housekeeper upon his oath, and the justice and clerk shall proceed as required in the previous subsections in reference to stray horses.

Fees, &c., to be paid by owner.

6. The taker up shall be paid by the owner of the stray if and when he claims the same or its value, the fees paid the justice and clerk and the costs of advertising, and also a reasonable sum for keeping the stray, where the same has not been used, and likewise a fee of one dollar for each horse, mule, jack, or jennet, and one shilling for any other stray posted.

Penalty.

§ 7. If any person shall violate the provisions of this act, or fail or refuse to comply with its provisions, he shall forfeit and pay ten dollars for each offense.

CHAPTER LV. CATTLE, HORSES, AND DOGS.

ARTICLE I.

For the restraint and destruction of dangerous, mischievous, and noxious animals.

§ 1. If any unaltered horse or jackass over one year old, is permitted by its owner to run at large outside of his in-

closure, such horse or jack may be taken up and confined by any person; and if the owner be known, notice in writing of such confinement shall be given him, whose duty it shall be forthwith to take such horse or jack into his possession, and pay to the taker up two dollars. If such horse or jack be not called for by the owner, allowing him twenty-five miles for each day he may necessarily have to travel after the service of such notice, the taker up, at the expiration of the time, shall take the said horse before a justice of the peace, within the district where he resides, who shall, upon the proof of the facts, order said horse or jack to be gelded by some one skilled in the art.

§ 2. The fee for gelding shall be one dollar. The taker-up, besides the fee for gelding, shall be allowed two dollars for his trouble, and twenty cents per day for each day he may keep the horse or jack, to be paid by the owner, and may retain the possession and have a lien thereon till paid. If the horse or jack dies or escapes, the owner shall nevertheless be liable for the expenses.

§ 3. When the owner of such horse or jack is unknown to the taker-up, and so verified by his oath, he shall take the same before a justice of the peace within his district, who shall cause the horse or jack to be appraised and dealt with as any estray, except that a notice in writing of the description of the horse or jack, and residence of the taker-up, shall be posted up at the door of the court house, and at one or more public places in the county; and if the horse or jack be not called for by the owner, and his property proved, as required in case of other estrays, within two weeks, the taker-up shall again take the horse or jack before the justice of the peace, who shall cause him to be gelded, as provided in the first section of this chapter. The taker-up shall be allowed two dollars for his trouble and all reasonable charges paid; and if the horse or jack be not proven and taken by the owner, he shall, after one year, become the absolute property of the taker-up. The owner may, at any time within three years, by proving his property, recover the valuation of said horse or jack.

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Unaltered horse, &c., running at large to be taken up, and gelded.

Fee, &c.

When owner not known.

ARTICLE II.

Bulls.

§ 1. If bulls known to be mischievous and breachy are permitted by their owners to run at large outside of their inclosures, they may be taken up and proceeded with, and altered, as provided in case of horses or jacks in the preceding article; and the liability of the owner shall be the same.

Bulls.

ARTICLE III.

§ 1. If the owner of any distempered cattle shall permit them to run at large outside of his inclosure, or shall drive

1859.

Penalty for allowing diseased cattle to run at large.

the same into or through any part of the state, unless it be from one portion of his own inclosure to another, he shall forfeit and pay the sum of ten dollars for each head; and when any such cattle shall die, the owner thereof shall cause them to be burned or buried; and if he fail, he shall be fined five dollars for each offense.

Justice to issue order commanding owner to impound.

§ 2. If a justice of the peace be informed, by affidavit, that the owner of such cattle as are described in the preceding section, has violated its provisions, it shall be his duty to issue his order to such owner, commanding him to impound them; and if he fail or refuse to do so, or permit them to escape, or to be taken from the pound before the disease has been removed, he shall have power to order the cattle to be killed and burned at the expense of the owner.

Mad dog to be killed.

§ 3. A justice of the peace, on proof that any dog is mad, or has been bitten by a mad dog, or has killed or wounded any sheep, shall order such dog to be killed.

Penalty for concealing.

§ 4. If the owner of any dog so ordered to be killed, shall conceal him or order him to be concealed, to prevent the execution of such order, he shall forfeit five dollars for every day said dog shall be concealed.

Fees, &c.

§ 5. The constable or other person who may execute the order of any justice, as described in the second and third sections of this article, shall be paid by the owner of such cattle or dog the following fees: for killing and burying a horse, jack, jennet, or mule, three dollars; other cattle, two dollars for each head; and for killing a dog, one dollar; and if he fail or refuse to execute the order, he shall forfeit and pay an amount equal to the fees allowed in each case.

ARTICLE IV.

Dogs.

Mischievous dogs going at large may be killed.

§ 1. Sheep killing, ravenous, or mischievous dogs shall not be permitted to go at large outside of the inclosure of the owner or keeper.

1. Such dogs, so going at large, may be killed by any person.

2. The person who kills such dog may be a competent witness to make out his justification for so doing.

ARTICLE V.

Civil liabilities.

Redress by action.

§ 1. Any person injured by the horse, cattle, or dog of another, such as is described in this chapter, shall have redress by civil action.

CHAPTER LVI.

1852.

VAGRANTS.

§ 1. If any able bodied person be found loitering or rambling about, not having the means to maintain himself, by some visible property, or who does not betake himself to labor, or some honest calling to obtain a livelihood, or who, not possessing such means, has quit his habitation, leaving a wife or child without suitable means of subsistence, or who is idle or dissolute in habits, without visible means of support, he shall be taken and adjudged to be a vagrant, and guilty of a high misdemeanor.

Who adjudged
vagrants.

§ 2. A person guilty of the offense described in the above section, shall be indicted by the grand jury in any county where he may be found, and if not in custody or on bail, process for his apprehension, as in criminal cases, shall be awarded, with an indorsement that he be admitted to bail, upon his executing bond in the penalty of one hundred dollars, with good surety, conditioned for his appearance at the time and place specified in the writ.

To be arrested
and admitted to
bail.

§ 3. Such persons may be apprehended by the warrant of a justice of the peace issued upon his own knowledge, or upon information upon oath, and directed to any constable, sheriff, or other officer, who shall return the same forthwith, together with the prisoner, to the officer issuing the same, or some other justice of the peace, police judge, or the judge of the county court, and summon such witnesses as either party may require. The officer to whom the return shall be made, shall hear and decide upon the question of the probable guilt of the prisoner. If he shall be of opinion that there is strong probability that the prisoner is guilty, he shall commit him for further trial before the circuit court of his county, unless the accused shall enter into bond in the penalty of one hundred dollars, with good surety, for his appearance on the first day of the next succeeding term of the circuit court aforesaid, and that he will not depart therefrom without the leave of court. The justice shall state in his record the substance of the evidence given upon the trial, recognize the witnesses to appear at the circuit court as in criminal cases, and return the papers to said court in due time.

Proceedings
of justice before
whom brought.

§ 4. Persons indicted for vagrancy shall be tried by a jury, and if found guilty, the jury shall fix the time for which he shall be bound out to labor, or sold into servitude, not exceeding twelve months, if the convict be over twenty-one years of age; if he be a minor, the jury shall return his age also in their verdict.

To be tried by
jury.

§ 5. The court shall bind out the convict to labor, if over twenty-one years, for the term fixed by the jury; if under twenty-one years of age, he shall be bound out as an apprentice to a master until the age of twenty-one, to learn some trade, upon the terms which may be agreed upon:

Convict to be
bound out to la-
bor by the court.

1862.

The clerk shall prepare and keep the indentures, which, when signed, shall have the same effect as the indentures of apprenticeship in other cases.

Disposition of
money received.

§ 6. The sheriff, out of the money received, shall, under the order of the court, first pay the fees and expenses of the prosecution, not exceeding the fees allowed in criminal cases; the remainder he shall apply *pro rata* to the payment of the debts, if any, of the vagrant, so far as may be necessary, and whatever sum may remain shall be paid over to the wife and children of defendant, if any; if none, he shall pay it over to the convict at the expiration of his time, and he shall account for the amount to persons interested, as though he had collected the money under execution. If the convicted vagrant have a wife and family within the state of Kentucky, he shall have the right to enter into bond in the penalty of one hundred dollars, with good surety, conditioned that he will forthwith return to his family, and immediately betake himself to some honest calling for their support, whereupon he shall be immediately discharged.

When convict
has wife and
family.

Bonds to be
filed.

§ 7. Bonds given by vagrants under the provisions of this chapter shall be returned and filed with the clerk of the circuit court, and if forfeited, they may be proceeded on and the penalty collected as in other cases.

Rights, &c., of
persons buying
vagrants.

§ 8. The persons taking or buying a vagrant shall have the same rights and powers, and be under the same responsibilities as masters of servants, and of apprentices, during the time for which they have been sold, hired, or bound to them.

Duty of en-
forcing the law.

§ 9. All justices of the peace, police judges, judges of the county court, sheriffs, constables, and grand jurors are required to see that all persons in their respective counties shall be prosecuted for a violation of the provisions of this chapter.

Powers of city
court not repea-
ed.

§ 10. The provisions of this chapter shall not be construed to change the laws now in force authorizing vagrants to be tried and punished by the judgment of the city court of Louisville, or of any other city or town within this state.

CHAPTER LVII.

OF INCLOSURES AND CERTAIN TRESPASSES.

ARTICLE I.

What is a law-
ful fence.

§ 1. Every strong and sound fence of rails, brick, stone, or plank, five feet high, or a ditch three feet deep, and three feet broad, with a hedge two feet high, or a rail, plank, stone, or brick fence, two and a half feet high on the margin thereof, the hedge or fence being so close that cattle

cannot creep through, shall be deemed and held to be a lawful fence.

§ 2. If any cattle shall enter into any grounds inclosed by a lawful fence, the owner or manager of the cattle shall, for the first breach, be liable to the owner or occupant of such ground for such damages as he may have sustained thereby; and for every subsequent breach by the cattle of the same owner, double damages. And after having given the owner or manager of such cattle at least five days notice, in writing, of the fact of two previous breaches into the same inclosure, by the cattle of the same owner, the owner or occupant of such inclosure shall be entitled to said cattle, if again found trespassing on said inclosure, or he may, at his election, kill the cattle and sue for and recover treble damages of the owner or manager, for the third or any subsequent breach.

§ 3. If any person not having a lawful fence shall in any mode hurt, lame, kill, or destroy any cattle which may have broken over or through said fence into his inclosure, he shall pay to or satisfy the owner or manager of such stock double damages.

§ 4. It shall not be lawful for the owner, or any person having the care of any cattle, who is a non-resident of this state, to bring the same into this state and turn them loose to range or pasture in the woods. The cattle of such non-resident, so brought into this state, if found running at large upon the lands of other persons, shall be forfeited to the uses and purposes hereinafter mentioned.

§ 5. It shall be the duty of a justice of the peace of the county in which any such cattle may be so found, upon complaint made, to issue his warrant of attachment, directed to any constable of his county, who shall forthwith attach the cattle and safely keep the same, and make return to the officer who issues the warrant, or to some other justice of the peace for the same county.

§ 6. Upon the return of the attachment, the justice shall cause a jury of housekeepers to be impaneled to try the facts, and if the jury shall return a verdict that said cattle were brought within the county by the owner or manager, who is a non-resident, and that they were found running at large in the range or woods, upon the lands of other persons, the justice shall order such cattle to be sold for cash, by the constable, at public sale; ten days notice in writing of the terms, time, and place of sale shall be given.

§ 7. The constable shall retain for his full services, out of the proceeds of the sale, one dollar and fifty cents, and pay to the justice for his full services one dollar, and pay the remainder, if any, after deducting all reasonable expenses allowed and certified by the justice, to the commissioners of common schools of his county, to be applied to the purposes of education in said county. If he fail to do so, he

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Damages, &c.,
for breaches.

Killing or
maiming by one
not having law-
ful fence.

Non residents
turning cattle
loose, &c.

Cattle to be
attached.

To be sold.

Disposition of
money received.

1822.

and his sureties shall be liable to the persons entitled, as in cases of failing to pay money collected upon execution.

ARTICLE II.**Fences.**

When partition fence to be removed.

§ 1. When a partition fence has existed or may hereafter exist by agreement or acquiescence between two or more persons, neither party shall remove the same without the consent of the others, except between the first of December and the first of March in any year.

Previous notice.

§ 2. No such change as named in the last section shall be made unless two months previous notice in writing shall be given to the opposite party by the person desiring to make the same.

CHAPTER LVIII.**WILLS.**

“The thirty-ninth section of chapter —, “Wills,” is repealed, and the following adopted in lieu thereof:

Effect of proceeding in chancery.

But no such proceeding in chancery for establishing or avoiding a will shall operate further than is necessary to the rights of such infant, non-resident or other party, or otherwise affect the rights of any other person interested in the probate.

CHAPTER LIX.**FRAUDULENT CONVEYANCES AND DEVISES.**

The third section of chapter —, “Fraudulent Conveyances and Devises,” is repealed, and the following adopted in lieu thereof:

Voluntary alienation without notice.

Every voluntary alienation of or charge upon personal property, unless the actual possession, in good faith, accompanies the same, shall be void as to a purchaser without notice, or any creditor prior to the lodging for record of such transfer or charge in the office of the county court for the county where the alienor or person creating the charge resides.

CHAPTER LX.**DESCENT AND DISTRIBUTION.**

The third section of chapter —, “Descent and Distribution,” is repealed, and the following adopted in lieu thereof:

Collaterals of the half-blood.

Collaterals of the half-blood shall inherit only half so much as those of the whole blood, or as ascending kindred, when they take with either.

CHAPTER LXI.

MILLS.

1852.

§ 1. A person owning land on a water course, the bed whereof belongs to him or the commonwealth, and desiring to build on such land a grist mill or other mill or manufactory, useful to the public, and needing a dam in or across the water course, or the raising of an established dam, or the cutting or enlarging of a canal, above or below, may, by petition, in writing, filed in the county court of the county where the principal part of the land lies which is asked to be condemned, obtain therefrom a writ of *ad quod damnum*, for the purpose of making the necessary condemnation, which shall embrace all the land demanded; whether lying in the same county or not.

How land may
be condemned
for dam, &c.

§ 2. Ten days notice of the intended application must be given to every person whose right will be affected by the proposed taking or overflow of land, if known, and a resident of the state; but if unknown, or not a resident, written notice must be posted at the court house door on the first county court day of the previous month, and published twice in a newspaper printed in the county, if any such there be.

Notice of ap-
plication, how
given.

§ 3. The writ shall be directed to the sheriff of the county, commanding him to summon and impanel a jury of twelve disinterested and discreet freeholders of the county, on or near the land to be condemned, and on a day to be named in the order and the writ. If the writ cannot be executed on the day appointed, the proceeding shall be adjourned by the sheriff from day to day till executed.

Jury to be im-
paneled.

§ 4. The jury, after being sworn by the sheriff to make a true and impartial inquest; shall inquire, and report in writing over their signatures, what ought to be the height of the proposed dam, or how much the existing dam ought to be raised; whether, if the same be granted, the mansion house of any person, or the outhouses, yard, garden, or orchard thereto belonging, will be taken or overflowed; whether and in what degree ordinary navigation and the passage of fish will be obstructed, and if by any, by what means such obstruction may be obviated; and whether the health of the neighbors will be injured by the stagnation of water or otherwise. The jury shall also report, by metes and bounds, as much of the land, not exceeding one acre, which is not owned by the applicant, or covered by the bed of the stream, and which will be needed for the dam and abutment, and not exceeding one hundred feet in width, for what may be needed for the canal, and shall say what will be a just compensation to each owner therefor. They shall also report what lands will probably be overflowed or deprived of water, or otherwise injured by the dam or canal, and what will be a just compensation to the respec-

What jury
shall inquire and
report.

1852.

Leave not
granted until
persons interest-
ed have notice.

tive owners therefor; and whether the mill or manufactory is or will be useful to the public.

§ 5. The inquest shall be handed to the sheriff and returned by him to the clerk of the court, with the writ, for the inspection of all concerned. If it appear by the inquest that any person not notified of the proceeding, and not attending the inquest, will be injured by granting the leave, it shall not be granted until such person has had reasonable notice to show cause against the same. It shall stand for hearing on the first day of the term next after the return of the writ, if it be returned ten days before the commencement of the term, and if not, then on the first day of the next term.

When leave
not granted.

§ 6. If, from the inquest or other evidence, it shall appear to the court that, by granting such leave, the mansion house of any one, other than the applicant, or the out-houses, or a part of the yard, garden, or orchard thereto belonging, will be overflowed or taken, or that any other legally established mill will be materially injured thereby, or that the health of the neighbors will be annoyed, the leave shall not be granted. But if it shall not so appear, the court shall then grant or refuse the leave, as may seem to it proper. If it be granted, the court shall lay the applicant under such terms and conditions as may seem right, taking care that ordinary navigation and the passage of fish shall not be obstructed, nor the convenient passing of the water course impeded.

Conditions
when granted.

Owner of land
may cross canal
with fencing,
&c.

§ 7. Whenever such leave is granted, the owner or person in possession of the land through which any canal may be cut, may cross it with such fencing, water gates, and bridging as are necessary and will not prevent the flow of water through the canal.

Water not to
be drawn from
another mill
pond.

§ 8. No person shall, by reason of such leave, draw the water from the millpond of another existing at the time of the leave, or otherwise do any thing injurious to a vested right in any water works then existing on the water-course.

Title of land
condemned
vested in appli-
cant.

§ 9. The applicant to whom such leave may be granted, shall, upon paying the several parties entitled thereto the compensation ascertained by the judgment of the court, or upon paying the same into court for their use, become vested with the fee simple to the land so designated by the inquest and judgment, have a writ of possession therefor, and otherwise proceed according to such leave.

When title
shall revert.

§ 10. If the applicant shall not, within one year after the leave obtained, commence in good faith the proposed work, and within three years so far finish it as to have the mill or manufactory in good condition for use, or if the same be destroyed and become unfit for use, and the rebuilding or repair thereof be not so commenced within a year and finished within three years from the time of such destruction or getting out of repair, the title to the land so obtained under the condemnation shall revert to the former

owner, his heirs or assigns, and all the privileges obtained under the leave granted shall cease, unless the owner of the mill and privileges shall at such time be an infant, *feme covert*, imprisoned, or of unsound mind, in which case he shall be allowed the same time after such disability is removed, if the time so excepted does not exceed, in the whole, the term of seven years.

§ 11. No such inquest, or the judgment thereon, shall bar any prosecution or action, which could be maintained if this chapter were not enacted, except for an injury foreseen and estimated by the inquest.

§ 12. If the terms and conditions upon which the leave is granted are not fulfilled and substantially complied with by the applicant, so that the public or any individual does or might receive detriment thereby, upon conviction thereof under the presentment of a grand jury, the leave shall be revoked, and the dam ordered to be abated, by the circuit court.

§ 13. Every owner or occupier of a mill grinding for toll, whether established by law or otherwise, shall keep therein and use sealed measures of half bushel and peck, and a toll-dish sealed; and shall measure all grain by strike measure, under the penalty of two dollars and fifty cents for every such failure, recoverable, with costs, before a justice of the peace, for the use of the informer.

Every miller shall well and sufficiently grind the grain brought to his mill, for the consumption of the person bringing or sending, in due time, and in the order that the same shall be brought, giving the preference only to what may be necessary for his own family use. He may take for toll one-eighth part, and no more, of all grain, of which the remaining part shall be ground into meal; and one sixteenth part, and no more, of that, the remainder of which shall be ground into hominy or malt. For any violation of these rules as to time, order, or quality of the grinding, or as to the amount of toll taken or demanded, the owner or occupier of the mill shall forfeit two dollars and fifty cents to the party injured, recoverable, with costs, before a justice of the peace.

§ 14. No owner or occupier of a mill within the limits of any town, or within a mile thereof, shall permit his hogs to run at large at such mill, under the penalty of two dollars for every day's continuance of such offense, recoverable, with costs, for the use of the informer, before a justice of the peace.

Effect of inquest upon actions.

Leave may be revoked for failure to comply with conditions.

Owner of mill to keep sealed measures.

Precedence in grinding; toll, &c.

Not to allow hogs to run at large.

CHAPTER LXII.

TURNPIKE AND PLANK ROADS.

§ 1. The several companies incorporated, or which may hereafter be incorporated, for the purpose of making a

1858:

Companies
may acquire one
acre to each
mile.

turnpike, graded, or plank road, and also the commonwealth, when she has made or makes any such road, may acquire the title to one acre of land adjacent to each mile of the road, in one or more parcels, for the purpose of obtaining materials for the making or repairing of the road; and also, in addition, one-fourth of an acre of land, for the purpose of using or erecting thereon a toll-house for the use of a gate-keeper, wherever a gate is or may be established.

Rock, gravel,
&c., in exchange
for use of road.

1. The necessary rock, gravel, wood, or other material, or the use of any rock or quarry for making or repairing the road, may be obtained by purchase, or as an equivalent therefor, in whole or in part, the use of the road free of toll may be granted to the owner of the materials, for one or more gates, in perpetuity, or for a term of years.

Ad quod dam-
nnum.

2. When the land or material cannot be obtained by private agreement, the company or the commonwealth may have the same condemned under a writ of *ad quod damnum*.

Land hereto-
fore acquired.

3. The company or commonwealth may retain any such land heretofore obtained, whether there was any law authorizing its acquisition or not, and may sell any such land heretofore or hereafter acquired, to the owner of the adjoining land, but none other; nor shall any building be erected thereon, or otherwise used as a residence for any person, except for the use of a gate-keeper. If any part of a parcel of such land is built on and otherwise so used, such parcel shall revert to and become the property of the person from whom it was purchased, or his heirs. But if any such land be sold, as herein allowed, the company or commonwealth may purchase as much more elsewhere, within the mile.

When land to
revert.

4. If the commonwealth or company ceases to keep up the road, any land procured as herein authorized shall revert to the person from whom it was obtained, or his heirs, saving the rights of creditors.

§ 2. The following rules shall be observed by all vehicles running on any turnpike or plank road:

Rules for ve-
hicles passing,
&c.

1. Vehicles meeting shall give to each other one half of the stone or plank road, each bearing to its right; when a fast vehicle overtakes one of slower movement, the latter shall bear to the right, so as to permit the other to pass on its left or near side. But on plank roads not affording room for the passage of both on the planks, no loaded wagon or cart shall be required to get off the planks to afford a passage to any vehicle other than another loaded wagon or cart.

Penalty for
non-compliance.

2. If any driver fail or refuse promptly to comply with either of these rules, he or his employer shall be fined for each offense not less than two nor more than five dollars.

3. Bells of no kind, unless their clappers be so secured as to prevent their making a noise, shall be carried on the

animal or animals drawing any vehicle. For any violation of this rule, the driver, or his employer, shall be fined from two to five dollars for every day during any part of which the offense is committed.

4. Whoever shall obstruct any portion of a turnpike or plank road, by depositing thereon any stone, wood, material, filth, or trash, or by feeding any stock on either the stone, or plank, or dirt part of the road, shall, for every such offense, be fined from two to five dollars.

5. No vehicle shall be left standing by night or day, on the stone or plank part of the road; nor shall the animals attached thereto be fed on such part of the road. Every driver or his employer violating this rule shall be fined, for each offense, from two to five dollars. But no person shall be deemed to be within this prohibition whose vehicle is unavoidably detained by accident or misfortune, until a reasonable time has elapsed after such accident or misfortune sufficient to remove the vehicle.

6. Any unlawful obstruction to a road may be removed by the agent or superintendent thereof, at the cost of the person making the obstruction, and which may be recovered in the name of the company, or of the board of internal improvement, as the case may require.

1852.

Holla.

Penalty for obstructing road, &c.

Leaving vehicles in the road.

Superintendent may remove obstructions at cost of persons making them.

Tolls.

§ 3. The following shall be the rates of toll on all the turnpikes in which the commonwealth is interested, except where the charter of a company provides differently, and unless the rates have been or may be reduced by the board of internal improvement.

1. These rates are for gates standing five miles apart, and in that proportion for a less distance; but when there is a fraction of a road, of a mile or more, less than five miles, toll may be charged at the gate next thereto for the fraction, in the proportion that its length bears to five miles.

2. All tolls are to be paid at the several gates at the time they are passed, or in advance, unless, by agreement with the managers of the road, a special permit is obtained to pass for a month or other longer term not exceeding a year. If not so paid, the gate-keeper may stop any person and prevent him or his property from passing till payment is made.

Tolls.

For gates five miles apart.

Tolls to be paid at the time or in advance.

General traveling.

3. For every horse or mule, and rider,	-	5 cents.
For a horse, mule, or jack, led or driven,	-	3 "
For each head of cattle,	-	2 "
For each head of hogs,	-	$\frac{1}{2}$ "
For each head of sheep,	-	$\frac{1}{4}$ "
For each vehicle drawn by one horse or mule,	-	10 "

Rates

1852.

For each vehicle drawn by two horses,
mules, or oxen, - - - - - 20 cents.

For each pleasure carriage or hackney coach
drawn by two horses or mules, - - - - - 25 "

For same when drawn by four horses or
mules, - - - - - 30 "

For each sleigh drawn by one or two horses
or mules, - - - - - 15 "

For each wagon drawn by three horses,
mules, or oxen, - - - - - 30 "

For same drawn by four animals, - - - - - 50 "

For same drawn by five animals, - - - - - 60 "

For same drawn by six animals, - - - - - 75 "

But empty wagons, or such as have no other
loading than provender for the team, shall pay
only half these rates.

For each stage coach having seats within for
six passengers, - - - - - 35 "

For same for nine passengers, - - - - - 55 "

For same for twelve passengers, - - - - - 75 "

And two cents in addition on any such for every passen-
ger over four.

Broad tread or tire.

For each wagon with four animals, of four
inch tread or over, - - - - - 35 "

For same with five animals, - - - - - 50 "

For same with six animals, - - - - - 60 "

Neighborhood travel, or hauling with common tire or tread.

For each wagon or cart drawn by two ani-
mals, and loaded with nothing but the produce
of the farm, for a trip, going and returning, - 35 "

For same drawn by three animals, - - - - - 45 "

For same drawn by four animals, - - - - - 55 "

For same drawn by five animals, - - - - - 75 "

For same drawn by six animals, - - - - - \$1 00 "

Neighborhood hauling with broad tread.

For each wagon loaded as above, drawn by
four animals, for every trip, - - - - - 50 "

For same drawn by five animals, - - - - - 60 "

For same drawn by six animals, - - - - - 85 "

Ministers may
be exempted. § 4. The managers of any road in which the state has
an interest may permit ministers of the gospel to travel on
the road without paying toll, when on ministerial duty.

New roads.

How company
may be formed. § 5. Any five or more persons may unite as a company
for the purpose of making a stone or gravel turnpike or a
plank road, of not less than five miles in length, within or
through a county or part thereof, by agreement in writing,
signed by the parties, and accompanied with a subscrip-

tion, in good faith, by responsible persons, of not less than one nor more than seven thousand dollars for each mile of proposed road.

1852.

1. The agreement must show—*First*. The points between which the road will pass, with its general course. *Second*. The amount of stock proposed to be raised, the time and manner of its payment, and the number of shares into which it is to be divided, not exceeding one hundred dollars each. *Third*. The name or style by which it is desired to designate the company.

What agreement must show.

2. The parties to the agreement shall appoint a committee of three of their number to manage their affairs until the company is established.

Committee.

3. The committee shall give notice of an intended application to the county court to establish the company, by written advertisement posted at the court house door on a county court day, at least one month before the day appointed, and, if there be a newspaper published in the county, by publication therein once a week for at least three weeks before the day.

Committee to give notice of application to county court.

§ 6. Upon presentation of the agreement to the county court of the county in which the road is to be located, together with proof by affidavit that the requisite notice has been given, if it is satisfied that the requisite subscription has been made by responsible persons; that the proposed road can probably be made at the estimated cost; that it will materially promote the public convenience and advantage, and that it will not materially, injuriously, and unnecessarily affect the interest of another established road; the court shall retain the agreement as part of its records, appoint three discreet and disinterested persons as commissioners to view and report upon the route, one of whom shall have skill or experience in civil engineering; and also appoint one or more persons to receive subscriptions to the stock. None of the applicants shall be appointed a commissioner, nor shall any person who either resides or owns land within three miles of the line of the proposed road.

Commissioners may be appointed by the county court.

1. The commissioners, before entering on their duties, shall be sworn before a judge or justice of the peace fairly and impartially to discharge their duty.

Commissioners to be sworn.

2. They shall view, survey, and report what they deem the nearest practicable and most eligible route for the road; showing—*First*. The distance and probable cost. *Second*. The lands of individuals through which it will pass, and its probable damage to them. *Third*. The benefits to be derived by the public from the road. *Fourth*. Whether it will materially, injuriously, and unnecessarily affect the interest of an established turnpike or plank road. They shall also, at the request of the parties, in like manner, view, survey, and report one or two other routes, in whole

To view and report.

1852.

Receive sur-
renders of right
of way, &c.

or in part, as may be designated, together with the reasons for their preference of the route recommended by them.

3. The commissioners or the committee may receive, in behalf of the proposed company, written proposals for the surrender of the right of way, the grant of materials, or other aid in the construction of the road, or conditional subscriptions of stock, any of which, when the company is established, it may adopt and enforce.

Commission-
ers' pay.

4. The commissioners shall each receive two dollars a day for every day necessarily employed in the discharge of their duty, and their reasonable expenses, for which the court may award them execution against the applicants, and for which the latter shall be reimbursed by the company.

Failure to act.

5. Upon the failure or refusal to act of any or all the commissioners, the court may, from time to time, appoint others.

On failure to
agree, umpire to
be appointed.

6. The report shall be prepared and returned to the court as soon as practicable by the commissioners, or any two of them; and if no two of them can agree upon a report, the court shall appoint a fourth commissioner as umpire between them.

Hearing.

§ 7. Upon hearing the report, the court may receive affidavits for or against it, and may give time for further proof. It may be confirmed and adopted in whole or in part, or a new view, survey, and report may be ordered, in whole or in part, by the same or other commissioners.

Court to de-
signate route.

§ 8. If it be found that the road ought to be made, the court shall enter an order designating by which of the routes reported the road shall be made, or permitting the company to select either route.

Receiving sub-
scriptions of
stock.

§ 9. Immediately thereafter, the person designated shall give two weeks notice, as before directed, of his readiness to receive subscriptions to the stock. Subscriptions shall be received until twelve o'clock of the Saturday next preceding the next term of the court. A detailed statement of the subscribers and of the amount of stock subscribed shall be reported by him to the court, together with his opinion as to the sufficiency of the subscribers for the amount of their several subscriptions. He shall receive for his services five dollars, to be paid and enforced in the manner directed as to the pay of the commissioners.

If sufficient
company to be
established.

§ 10. If it appear that a sufficient amount of capital has been subscribed by responsible persons, the court shall make an order establishing the company, with full power and authority to make and keep up the road.

Corporate pow-
ers.

§ 11. Thereupon the subscribers to the stock, and their successors, shall, for that purpose, become a body corporate, by the name selected, who, by that name and style, shall have perpetual succession, and may sue and be sued.

§ 12. The committee, after two weeks notice of the time and place, given as before directed, shall convene a meeting of the subscribers to the stock.

1. They shall, at that meeting, hold an election for five managers of the company.

2. Every subscriber who, on or before that day, pays to the committee five dollars in the hundred on the amount of his subscription shall have as many votes as he has subscribed shares of stock.

3. At any subsequent meeting of stockholders, none shall be allowed to vote but those who have paid all that may be then due on their subscription.

4. At any such meeting, or upon any question submitted to the vote of stockholders, each shall have as many votes as is equal to the number of his shares.

5. At any meeting of stockholders all needful rules and by-laws for the government of the company, its officers and servants, may be adopted by a majority of votes, and the same, from time to time, in like manner, may be repealed, altered, or amended.

6. No meeting of stockholders shall have power to act otherwise than to appoint an adjourned meeting, unless a majority of the stockholders are present, or unless a majority of the stock is represented, in person or by written proxy.

7. An annual meeting of stockholders shall be held at ten o'clock in the morning on the first Monday of the month in which the first election is held. The managers may call a meeting at any time, after ten days notice of the time and place by advertisement in a newspaper published in the county, or by written notice served in person or left at the residences of a majority of the stockholders. The place of meeting, if not otherwise appointed by the managers, shall be at the office of the company, or if none, at the toll gate nearest to the seat of justice.

§ 13. The managers shall hold their offices for one year or until their successors are elected. Any vacancy from death, resignation, or refusal to accept, the managers shall supply.

1. The managers shall select one of their number as chairman, whose private seal or scroll, when attached to his official signature, shall serve as the seal of the corporation until a corporate seal is adopted.

2. The managers shall, subject to the by-laws, have the control of all the property and affairs of the company.

3. They shall, from time to time, appoint a treasurer, who, before acting as such, shall give to the company a covenant, with adequate surety, for the faithful discharge of the duties of his office. He shall keep all the funds of the company, and a payment to him shall be the only legitimate mode of payment of money to the company. He

1852.

Election of managers.

Who may vote at first meeting.

Who at subsequent meetings.

How many votes each.

Rules and by-laws may be made.

Less than majority cannot act.

When annual meeting to be held.

Called meetings.

Managers' term of office.

Chairman; seal.

Managers' powers.

Treasurer—his duties.

1852.

Record of proceedings.

Right of way, &c., obtained by contract or condemnation.

Other corporations may sell to, or subscribe stock in said company.

How the road must be made.

When and how erection of gate authorized.

shall disburse its funds upon the order of the managers only, and shall account to them whenever required.

4. They shall keep a record of their own proceedings, and of those of every meeting of stockholders, which shall be subject to inspection at all times, upon the demand of any two stockholders.

§ 14. Any incorporated road company, or any road company hereafter incorporated, either by the legislature or under this chapter, may obtain, by voluntary agreement with the owners, the right of way and the necessary land for toll houses and other purposes, as in this chapter allowed; also the necessary materials for making and repairing the road. If they cannot be so procured, the company may have the same condemned, by filing its petition for that purpose with the clerk of the county court, and obtaining thereon the necessary writs of *ad quod damnum*, and procuring the regular condemnation thereunder, as required by law. But no such condemnation of the right of way shall be for a road of more than sixty feet in width.

§ 15. Any incorporated turnpike company may, with the assent of a majority of its stockholders, sell or transfer the use of the whole or any part of its road to a company incorporated under this chapter; and any corporation, city, town, or county may subscribe for its stock, if the assent thereto of a majority of the voters of the city, town, or county be first obtained by the council, trustees, or county court of such city, town, or county.

§ 16. The road must be made—

1. Of the best and most durable material that can be conveniently procured in its neighborhood.

2. The stone or gravel must be at least ten inches deep, and that part of the road covered with it must be at least ten feet broad. If the road is made of wood it must be at least eight feet broad and covered with plank not less than two and a half inches thick, with suitable turnouts at convenient distances.

3. If a turnpike, it shall have a grade not exceeding three degrees, with all necessary dirt turnouts; and if a plank road, a grade not exceeding two degrees.

4. It shall be so made as to present, or to obtain with use, a smooth, hard, permanent surface.

5. It shall have good convenient embankments and necessary culverts to facilitate its being crossed by other roads.

6. It shall have all needful side drains, culverts, and bridges.

7. The planks, stone, or gravel part shall be made near to one side of the road, except in crossing fills or deep cuts.

§ 17. When notified that five continuous miles of the road are completed and ready for travel, the county court shall appoint three justices of the peace no way interested

In the road, who, with the aid of some person of competent skill as a civil engineer, shall view the road and report its quality and condition. Each justice and engineer shall be paid by the company two dollars for every five miles. Upon hearing the report and any exceptions or proof that may be made in relation thereto, if it appear that the five miles of road have been constructed according to law, the court shall make an order authorizing the erection of a gate and the receipt of toll, pursuant to the rates of toll established in this chapter.

1852.

§ 18. The shares of stock in the company shall be deemed personal estate and transferable on the books of the company agreeable to such rule as may be established by the by-laws or by its managers.

Stock and personal property transferable.

1. The stock shall be paid in such installments and at such times as may be required by the managers; and for default in payment, the by-laws may authorize a forfeiture of the stock.

Paid by installments.

2. No such forfeiture, assignment, or transfer shall exonerate any subscriber from the payment of his whole subscription, but he and his assignee shall both be liable therefor.

Effect of forfeiture.

3. If more stock is subscribed than amounts to seven thousand dollars per mile, the subscriptions shall be scaled until reduced to that amount, the largest subscriptions being first scaled, until all, if necessary, are reduced to an equality.

If too much subscribed.

4. If the stock provided for prove inadequate for the completion of the road, the managers may, with the assent of the county court, obtain new subscriptions, so that the whole stock shall not exceed the seven thousand dollars a mile.

When stock inadequate

§ 19. The managers shall make half yearly dividends of the net profits of the road among the stockholders, after retaining a sum adequate to cover the repairs for the ensuing six months.

Dividends.

§ 20. If the road yield a net profit of more than ten per cent. per annum, the managers shall reduce the rates of toll so as to bring the profits within that amount. A failure to do this for one year, shall incur a forfeiture of the charter.

If net profit exceed ten per cent., tolls to be reduced.

§ 21. If the road in any part becomes impassable, the gate keeper for the five miles within which the defect exists, shall immediately, on notice thereof, cease to demand toll until the road is repaired. For failure herein the company shall be fined fifty dollars a day for every day in which toll is so improperly received or demanded.

When road impassable, tolls cease.

§ 22. If the road becomes unfit for public travel, and so remains for four days, the company shall be fined fifty dollars a day for every day it is suffered so to remain, and during which any toll is received or demanded.

Road unfit for travel four days, company, fined.

1852.

For thirty days,
charter forfeited.

§ 23. If the road is suffered to remain so out of repair for thirty days, upon conviction thereof in the circuit court, under a presentment of the grand jury, the charter of the company, with all its franchises, shall be adjudged to be forfeited. The right of way shall be ordered to revert to those from whom it was obtained, or their heirs or assigns, or the road shall be transferred to the county, to be kept up as a common county highway, as to the court may seem most just and expedient.

Toll gate keep-
er may adminis-
ter oath.

§ 24. The toll gate keeper of any road or chartered bridge may require any person wishing to pass any gate or bridge to truly state, on oath, to be administered by him, the distance traveled or intended to be traveled on the road, and the number contained in any drove of stock, with whatever else may be necessary to ascertain the true amount of toll that should be paid. Any person refusing to give such information under oath when required, shall be fined ten dollars.

Evading pay-
ment of toll,
&c.

§ 25. Whoever shall defraud or attempt to defraud the commonwealth or a company, go around a toll gate, or otherwise evade or attempt to evade the payment of tolls, or to lessen the amount of tolls fairly payable by him, he shall, for every such offense, be fined ten dollars.

Defacing mile
post, &c.

§ 26. Whoever shall willfully break, deface, pull down, or remove any mile post or stone, or any direction post, or the board thereof, or any printed list of the rates of toll affixed at a toll gate put up on or near any turnpike or plank road, shall be fined from five to ten dollars for every such offense.

Driving across
bridge faster
than a walk.

§ 27. Whoever shall ride or drive across a wooden bridge of any such road faster than a walk, shall, for every such offense, be fined from one to five dollars.

Lateral roads
not to run with
in mile.

§ 28. No lateral road shall be opened to and from the same places now connected by any turnpike or plank road, or which may be hereafter so connected, so as to run within one mile of such road; and any such lateral road now in use or which may hereafter be in use shall, by order of the county court, be shut up and closed. But such lateral roads shall not be precluded from so running as near as a mile for the distance of one mile from any town or city.

Ad quod damnum.

Writ of *ad quod*
damnum to de-
signate land.

§ 29. A writ of *ad quod damnum* issued under authority of this chapter shall designate the land or property to be condemned, and may include that of several persons, and shall be directed to the sheriff of the county in which it is situated.

Inquest.

1. It shall direct him to hold an inquest by a jury of twelve impartial and discreet freeholders of his county, at or near the land or property, to ascertain the amount of

damage each owner will severally sustain if it be condemned for the use of the road.

2. The owner, or his guardian or committee, must have five days written notice of the time and place of holding the inquest, if he reside in the county; if he reside in another county, twenty days notice; and if he does not reside in the state, or is not known, thirty days notice, by posting at the court house door on a county court day, and by advertisement twice published in a newspaper printed in the county, or in an adjoining county, if there be any such paper.

3. Besides challenges for interest or kinship, each party may challenge three jurors without cause.

4. The jurors shall be sworn truly and impartially to ascertain and determine by their inquest the amount of compensation each owner will be entitled to if his land or property, as named in the writ, is condemned.

5. The inquest shall be signed by each juror, handed to the sheriff, and returned by him, with the writ, within three days, to the clerk of the court.

6. If the jury cannot agree, the sheriff may discharge it and summon another jury or other juries; and if, from that or any other cause, the inquest cannot be completed on the day appointed by him, he may adjourn it from time to time until it is completed, without further notice than his proclamation made at the time.

7. The jury shall allow the fair cash value of the land or property proposed to be taken, and also fair compensation for any incidental or collateral damage which the taking of it will produce to the other land of the owner; but from such incidental or collateral damage shall be deducted the amount, in value, of the benefit which such other land will derive from the making of the road.

§ 30. Either party may, within ten days after the finding of the inquest, file a traverse thereof with the clerk of the court; whereupon, the case shall be docketed for the first day of the next term, and shall be tried on that day, if it is ten days after the inquest; otherwise, on the first day of the next term. It shall be tried by a jury of freeholders impaneled for that purpose. The party failing on the traverse shall pay the costs thereof, and the party traversing fails when the verdict traversed is not increased or diminished, as his interest may require. The costs of the inquest, up to the traverse, shall, in all cases, be paid by the party asking the condemnation.

§ 31. Either party may have the decision revised in the court of appeals; by appeal or writ of error; but no appeal or supersedeas on behalf of the owner of the property shall stay the judgment further than in the collection of costs against him.

§ 32. Upon proof of payment of the damages found by the

1852.

Notice to owner.

Challenge.

How jury sworn.

How inquest signed.

When jury cannot agree, or cannot complete inquest on day appointed.

What jury shall allow.

Traverse; when tried; costs.

Appeal or writ of error allowed.

1852.

Inquest confirmed upon payment of damages.

inquest, or under the traverse, or payment thereof into court for the use of the owner, or where none or merely nominal damages are found, the court shall confirm the inquest or verdict on the traverse, which confirmation shall vest the right to the property in the commonwealth or the corporation asking its condemnation, for the use of the road, and a writ of possession may at any time issue therefor.

When damages not paid before end of third term, right considered abandoned.

§ 33. If the damages assessed are not paid before the end of the third term next ensuing the verdict under the inquest, when not traversed, or that under the traverse, the applicant shall be considered as having abandoned all right to the condemnation, and shall never thereafter have another proceeding for the condemnation of the same property.

Right of way for hauling material.

§ 34. When a right of way is necessary for hauling any material condemned for the use of the road, the inquest shall state that the same is allowed and the same estimated in the damage given, if the land over which the right of way passes belongs to the owner of the material; and if to another, then there shall be a separate assessment therefor, in favor of such other. The inquest must designate briefly, by general description, the route or routes by which the right of way shall be used.

Hindering, &c., any right.

§ 35. Any person who shall hinder or attempt to prevent the use of any right derived from the condemnation shall pay the company or commonwealth double damages and costs; and any person who threatens so to hinder by violence, may be brought before a justice, and required to give bail in the penalty of one thousand dollars, with good surety, to keep the peace and be of good behavior for the next six months.

Fees.

§ 36. Clerks and sheriffs shall have the same fees for like services performed under this chapter as they are allowed in cases for opening county roads.

No quarry condemned within 200 yards of dwelling house.

§ 37. No quarry shall be condemned within two hundred yards of any dwelling house, or so near to any garden, orchard, or spring as materially to impair the value of the same.

CHAPTER LXIV.

IDIOTS AND LUNATICS.

ARTICLE I.

Custody of their estates and persons.

Jurisdiction of circuit and chancery courts.

§ 1. The several circuit and chancery courts shall have power and jurisdiction over the care and custody of the persons and estates of all idiots and lunatics resident in their respective counties, and over their committees, and to ap-

point, suspend, and remove committees for them upon the same terms and in the same manner as is given over the persons, estates, and guardians of infants.

§ 2. The several courts of chancery may, on the application of a committee, order the sale of the whole or any part of the real estate of an idiot or lunatic, when indispensably necessary for the payment of debts or for the maintenance of the idiot or lunatic and his family, and where the personal estate, with the rents and profits of the real estate, are not adequate for that purpose.

§ 3. The power and duty of the committee of an idiot or lunatic shall, in all respects, be the same as those of the guardian of an infant, except as to education. But the court may appoint a person other than the committee to take charge of the person of the idiot or lunatic when he is not confined in a lunatic asylum, and make the necessary orders for his support upon the committee.

§ 4. No judgment or decree shall be binding on an idiot or lunatic having a committee, unless the committee be also brought before the court; nor shall any suit be prosecuted in the name of such idiot or lunatic without the assent of his committee, unless, for special cause, the court in which it is brought shall permit its prosecution at the instance of another as next friend.

1. If there be no committee the court may proceed by the appointment of a next friend.

2. If there be a committee, and the idiot or lunatic is confined in an asylum, service of process on the committee alone shall be sufficient to bind the idiot or lunatic.

§ 5. A committee shall not be appointed to an idiot or lunatic who is a resident of this state, unless he has been heretofore or may hereafter be found such by the judgment of a court of competent jurisdiction in the county of his residence; or, if a non-resident, by the judgment of such court in the country of his residence.

ARTICLE II.

§ 1. No money shall be drawn from the public treasury for the support of any idiot until he shall have been found such by the verdict of a jury, as provided for in this chapter.

§ 2. Nor shall the amount thus drawn exceed the sum of fifty dollars for each idiot, in any one year, and according to that rate for a less time.

§ 3. The funeral expenses, not exceeding ten dollars, of a pauper idiot, found such by inquisition, when certified by the proper court, shall be paid out of the public treasury.

§ 4. Idiots who are paupers, and who, in the opinion of the court, can be safely and properly kept by a committee within the county, need not be sent to the asylum, but may, by order of the court, be committed to the custody of a committee or other person.

1852.

Real estate may be sold to pay debts, or for maintenance.

Power and duty of committee.

Another may be appointed to take charge of the person.

Committee must be brought before the court in suits, &c.

When there is no committee.

When idiot or lunatic in asylum.

Committee not to be appointed except upon judgment of court.

Money to be drawn from treasury in case of idiot so found by jury.

Amount not to exceed \$50 per year.

Funeral expenses.

When idiots need not be sent to asylum.

1852.

Allowance for
pauper idiots
and lunatics—
when made.

§ 5. A person is a pauper idiot or lunatic, within the meaning of this chapter, who has been found, by the verdict of a jury, to be an idiot or lunatic, and that he has no estate sufficient for his support; and also that his parents, if alive, have not sufficient estate to maintain him, and that he is unable to work for a support; and the order of court, making and certifying the annual allowance for the support of the idiot, shall be made on proof, and so state, and shall also state that the idiot is then alive, and a pauper. Upon such certificate, if a copy of the inquisition required to be filed by the provisions of this chapter has been filed with the auditor, he shall issue his warrant upon the treasury for the amount due, not exceeding fifty dollars per year, and at that rate for a greater or less time.

Inquest to be
held—attorney
for defendant to
be appointed—
duty of common-
wealth's attor-
ney.

§ 6. If any person be of unsound mind, it shall be the duty of the circuit or chancery court of the county in which he resides, upon the application of the attorney of the commonwealth, to cause an inquest by a jury to be held in open court, to inquire into the fact. The court shall appoint some member of the bar to represent and protect the interest and rights of the person alleged to be of unsound mind; and it shall also be the special duty of the attorney for the commonwealth to prevent the finding of any person as an idiot or lunatic who, in his opinion, is not such; or the finding of any person an idiot, who is a lunatic.

Oath of jury.

§ 7. The following oath shall be administered to the jury: "You do swear that you will well and truly inquire, and, from the evidence, say in your verdict whether A. B., the person whom you have in charge, is of unsound mind, and if of unsound mind, whether he is an idiot or lunatic—that is, whether he was destitute of mind from infancy, or has lost it since his birth; and if he has lost it since his birth, that you will state when, and, as far as you can from the evidence, the cause of it. You will also inquire and state his birth and residence, and whether he has been brought into this state by any person, and by whom, for the purpose of becoming a charge upon the commonwealth. That you will find what estate, and the value thereof, he owns in possession, reversion, or remainder; whether his parents are alive; where they reside; and whether they have estate sufficient to support the person under trial; whether he is capable of laboring, in whole or in part, and what part for his support." The judge shall instruct the jury upon the whole case, so as to enable them to decide the question whether the defendant is an idiot or a lunatic.

Judge to in-
struct jury.

Judgment on
verdict, or new
trial.

§ 8. On return of the verdict, if the court is satisfied with the inquest, judgment shall be entered upon it according to the finding. If the judge who presides shall be of opinion the verdict is not sustained by the evidence, or is against law, he shall set it aside, and award a new inquest.

§ 9. No inquest shall be held unless the person charged to be of unsound mind is in court, and personally in the presence of the jury. The personal presence of the person charged shall not be dispensed with, unless it shall appear by the oath or affidavit of two physicians, that they have personally examined the individual charged to be of unsound mind, and that they verily believe him to be an idiot or lunatic, as the case may be, and that his condition is such that it would be unsafe to bring him into court.

§ 10. In the year 1855, and every fifth year thereafter, before any order shall be granted by the court for the maintenance of an idiot out of his own estate, or out of the treasury, the idiot, in like manner, shall be brought into court, or his presence dispensed with, for the reasons in the preceding section; and the court shall cause the jury to be impaneled, who shall be sworn, as provided in the second section of this article, and also to inquire, and true report to make from the evidence, whether the person whom they have in charge has before been found, by the verdict of a jury and judgment of a court, an idiot, and whether and what change, if any, has taken place in his mind, physical condition, and estate, since the original inquest.

§ 11. A copy, certified by the clerk, of each original and subsequent inquisition, shall be transmitted to the auditor of public accounts; without such transcript, the auditor shall issue no warrant for the amount allowed by the court.

§ 12. The circuit court clerk of each county shall transmit to the auditor, on or before the 10th of September, in each year, a list of the pauper idiots in his county; if he fail to do so without good cause, he shall be fined fifty dollars. All pauper idiots and lunatics may be sent, by order of a court, to the lunatic asylum, and shall be maintained, during the continuance of the malady and stay in the hospital, at the expense of the commonwealth. If not so sent, the expense of maintaining lunatics shall not be a charge upon the commonwealth.

§ 13. Inquests, under and according to the provisions of this chapter, may be held by a judge or chancellor, by the presiding judge of a county, the judge of a city court, or police judge, when the circuit or chancery court is not in session. The officer who presides at such inquest may make all orders for the security of the estate and care of the person found of unsound mind; may order him to be taken to the lunatic asylum, when it would be proper for a court to do so; appoint a temporary committee for that purpose, and take from him bond and surety, payable to the commonwealth, for a faithful discharge of the duties of his station. Upon which bond, for a violation of its stipulations, any person aggrieved, or the committee thereafter appointed by the court, may sue in the name of the commonwealth, at their own costs.

1852.

Personal presence of person charged.

Idiot to be brought personally into court in 1855, and every 5th year.

Clerk to certify inquisition to auditor.

Clerk to send list of pauper idiots to auditor.

May be sent to asylum; state not charged if not.

Who may hold inquests.

His powers.

1852.

Disposition of
papers of in-
quest.

When suggest-
ed that lunatic
restored.

Prohibiting offi-
cer of inquest to
prepare history
of case.

When lunatic
sent to asylum
within first six
months.

Date of first
attack to be cer-
tified in order,
and certified by
circuit judge.

§ 14. The papers pertaining to the inquest shall be delivered, by the officer holding the same, to the clerk of the court having jurisdiction, who shall file the same; and, at the next term of the court, a committee shall be appointed by the court, as though the inquest had been holden in term time, and such other orders made and taken as may be necessary to execute the provisions of this chapter. Whenever it shall be suggested to the court, by affidavit, that a person found of unsound mind has been restored to his proper senses, or that the inquest was false or fraudulent, the court shall forthwith direct the facts to be inquired into by a jury, in open court, and make all necessary orders or decrees in the premises."

§ 15. When a person shall be found lunatic under the provisions of this chapter, the officer who presides at the inquest shall endeavor to ascertain and draw up a brief history of the patient's case, embracing the following points: 1. Age, occupation, married or single, habits, educated or not. 2. If any, what relations have been insane. 3. Date of first attack, how exhibited, has it changed in character, ever any at a former period. 4. Supposed cause, any peculiar illusions, and what, subject to fits, how long and from what cause, natural temper and kind of affection towards relations. 5. Any attempt at suicide, if any in what violence or propensity to mischief exhibited. 6. Periodic frenzy and lucid intervals, and duration of each. 7. What restraint has been imposed, what treatment used, and if bleeding, to what extent. 8. Any injury about the head ever received, any bodily disease from suppression of evacuations, eruptions, sores, or injuries. 9. Together with whatever else may be deemed material towards enabling the superintendent of the asylum to understand the case. Which statement, or a copy, shall be sent with the record to the asylum, if the lunatic is sent.

§ 16. To encourage the sending forward of lunatic patients, so that they may receive the benefit of proper medical treatment at that early stage of the disease which experience proves to be indispensable to a cure, neither the county nor any relative of a lunatic shall be chargeable with the cost of his detention for one year in the asylum, if he be delivered there within six months after the first attack of his lunacy; nor shall a relative, in such case, be chargeable with the cost of his transportation.

§ 17. The court shall ascertain and certify, as part of the order for the confinement of a lunatic in the asylum, the date of his first attack of lunacy, when it is intended to obtain the benefit of this provision; but before it is allowed, the fact shall also be ascertained, upon proper proof, and certified by the circuit judge of the district.

§ 18. If the certificate of the circuit judge cannot be ob-

tained until after the commitment, the treasurer of the asylum shall, upon its production, refund the cost of transportation to any relative paying the same.

§ 19. The officer carrying a pauper lunatic or idiot to an asylum, shall be paid, by the treasurer thereof, eight cents per mile for himself and each guard, going and returning, besides tolls and ferriages, and the same for the lunatic in going. But there shall be no charge for more than two guards, and only for one, unless the officer ordering such person to the asylum authorizes two. If transportation, in whole or in part, could have been had by stage, steamboat, or railway for less cost, no more than what ought to have been the actual cost shall be allowed.

§ 20. No officer shall be allowed for carrying an insane person who is a pauper to a lunatic asylum, unless he first apply by letter to the superintendent thereof and ascertain that the patient can be received, and that he cannot be sent for by the officers of the asylum. But where the safety of the lunatic or others seems to require it, the court may order the patient to be carried to the asylum immediately, without waiting for his being sent for.

§ 21. The superintendent, immediately upon notice that a person has been ordered into confinement at the asylum, shall cause him to be brought, and pay the expenses of transportation.

§ 22. Whoever shall bring or cause to be brought into any county or city of this state, from another state or county, any pauper idiot or lunatic, with the intent to make him a charge upon such county or city, or this state, shall be fined one hundred dollars, besides being liable at the suit of the county or city for all damages incurred thereby, besides the cost of transportation, and imprisoned not more than three months.

§ 23. No person not otherwise insane shall be sent to an asylum merely because he is subject to epileptic fits, or thereby rendered helpless.

ARTICLE III.

Lunatic Asylums.

§ 1. From and after the first day of January, 1853, there shall be five managers for each of the lunatic asylums in this state. The government of the lunatic asylums at Lexington and Hopkinsville shall respectively remain under the present managers and their successors in office. Each shall be a body corporate for the benefit of the state, the first by the name and style of "the eastern lunatic asylum of Kentucky," and the other by that of "the western lunatic asylum of Kentucky." Each shall have perpetual succession, have power to make contracts for the necessary purposes and objects of the institution, to re-

1852.

When judge's certificate not obtained in time.

Compensation for transporting pauper lunatics, &c.

Application to superintendent first to be made.

Superintendent to cause patients to be brought.

Penalty for introducing pauper idiots or lunatics.

Epileptic fits.

Corporate powers of managers.

1852.

ceive any gift of real or personal estate for the benefit of the state, in furtherance of those objects, and may sue and be sued.

Term of office,
vacancies, &c..

§ 2. Of the managers now in office it shall be arranged, by lot, which of them shall go out of office on the first of January next after this chapter takes effect, and which on each successive first of January for four years thereafter; and those hereafter appointed shall hold the office for five years from the then preceding first of January, or in case of vacancy during a term, for the unexpired term. Vacancies shall be filled by the governor, by and with the consent of the senate, or during the recess of the latter, by the appointment of the governor till the end of its next session. Incumbents at any time shall hold the office till a successor is appointed and qualified.

Each manager shall, before entering on his duties, take an oath well and truly to discharge the duties of his trust.

Chairman—
quorum.

§ 3. The managers shall appoint their chairman; a majority shall be a quorum, and a majority of the quorum sufficient to do any business pertaining to the board, other than that of making or repealing by-laws, and the appointment or removal of the superintendent, for any of which acts the vote of four managers shall be necessary.

By-laws.

1. They shall pass all necessary by-laws for the government of the institution, and all officers and servants attached thereto.

Superintendent,
&c.

2. They shall appoint and remove at pleasure a superintendent, an assistant physician, a steward, a matron, and a treasurer.

Subordinate of-
ficers.

3. All subordinate officers and servants allowed by the board shall be appointed and removed by the superintendent.

Superintendent
to be physician.

4. The superintendent shall be a skillful physician, reside in or near the asylum, devote his whole time to the management thereof, and the supervision of the patients, and have the control thereof, under and subject to the by-laws.

Treasurer's
covenant.

5. The treasurer shall give a covenant to the commonwealth, with good surety, to be approved by the presiding judge of the county court, worth thirty thousand dollars, stipulating for the faithful discharge of his trust, which covenant shall be renewed once in every two years, and oftener if required by the board.

His duties.

He shall receive, collect, sue for, and pay out all moneys belonging to the institution, settle his accounts with the board at least once in every three months, and in the month of December of every year with the auditor.

He shall keep all money belonging to the institution to his credit as treasurer in one of the banks incorporated by the state, and not be allowed to check out the same but by

virtue of special orders made from time to time by the board and attested by its chairman, or in his absence by the chairman *pro tem*.

6. All purchases shall be made and all work procured to be done for cash. The steward shall keep a regular account of all daily disbursements for the asylum, take vouchers for all payments of three dollars and over, settle his accounts with the superintendent and treasurer once in every month, with the board once in every three months, and with the auditor in every month of December. He shall keep his accounts always open for the inspection of any manager, the superintendent, or the treasurer. He shall give a covenant to the commonwealth, with good surety, worth four thousand dollars, to be approved by the presiding judge of the county court, for the faithful discharge of his trust.

7. The assistant physician shall, in case of the sickness or absence of the superintendent, discharge the duties of superintendent.

8. The managers shall receive no compensation. The salaries of all other officers and servants shall be as follows: the superintendent shall have \$1600 per annum; the assistant physician \$250 per annum; the steward \$300 per annum; the matron \$200 per annum; and the compensation of the other officers and servants to be such as, from time to time, be fixed by law in the appropriation bill. No manager or other officer shall sell anything to the asylum or make any contract therewith in which he is directly or indirectly interested.

9. The superintendent shall keep a register of all patients, showing name, age, date of reception and discharge, by whose authority received or discharged, and such as are pay patients or boarders.

10. The steward shall be accountable for the careful keeping and economical use of all furniture, stores, or other articles provided for the asylum. He shall annually, during the month of November, make and file with the managers a true and perfect inventory, verified by oath, of all personal property of every description belonging to the asylum, with the estimated value of different classes of articles.

§ 4. The managers shall keep a regular record of their doings, which, together with the accounts of any officer, shall be open at all times for the inspection of the governor or a legislative committee, or of any person appointed by either to examine the same.

§ 5. The managers and all officers and servants of the asylum shall be exempt from militia duty, from working on the public highway, and from serving on any jury. Nor shall the officers and servants be required to give personal attendance as witnesses in any civil suit out of the

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Purchases to be made for cash.

Steward to keep accounts, &c.

Assistant physician.

Salaries.

Register of patients.

Steward accountable for furniture, &c.

Managers to keep record.

Managers exempt from militia duty, &c.

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county in which the asylum is situated, but their depositions shall be taken in lieu thereof.

Residence and duties

§ 6. The managers must reside within five miles of the asylum; they shall hold regular quarterly meetings, and as much oftener as may be required by notice from the chairman or any two managers. They shall maintain a vigilant inspection of the asylum, for which purpose one of them shall visit it every week, two once every month, a majority once every quarter, and the whole board once every six months, in the manner and at the times to be prescribed by the by-laws. In a book kept for that purpose, the visiting manager or managers shall note the date of each visit, the condition of the house, patients, &c., with such remarks as may be deemed necessary. Any manager who cannot or will not comply with his duty as visitor for three months, shall vacate his office, and the chairman shall report the same to the governor, who shall fill the vacancy.

Receiving and discharging patients.

§ 7. No private patient shall be received but by the permit of a committee, composed of two managers and the superintendent, after personal inspection and other proof as may be deemed necessary, of the insanity of the party; nor shall any patient be discharged as cured or delivered to the custody of friends, where friends have placed him in the asylum, but by like permit. Any cured patient who was committed to the asylum whilst in custody of the law upon a criminal charge, shall be delivered to the keeper of the penitentiary or to the jailer of the county whence he came, as the case may require. A cured pauper, before discharge, shall have a good suit of clothes, and be furnished with money enough to pay his traveling expenses back to his home, not exceeding twenty dollars.

Charges.

§ 8. The managers shall not charge for any paying patient more than five dollars a week, nor, except by special agreement with the committee or friend, more than sixty dollars a year. Where the estate of the lunatic warrants it, his committee may contract for his receiving special comfort and being exempt from work, at any rate not exceeding five dollars a week.

Board to be paid in advance.

§ 9. No patient shall be received or retained, except by order of court, unless six months board be always paid in advance, and another six months board secured by the obligation of some sufficient resident of this state; but if the patient be discharged before the end of the six months, a proper portion of the amount paid shall be refunded.

Suits brought in circuit court.

§ 10. Suit in behalf of an asylum may be brought in the proper circuit court.

Annual report to the governor.

§ 11. The superintendent and managers shall, on or before the 10th day of October in each year, report to the governor the condition of the lunatic asylums under their charge, exhibiting the amount of expenditures, and for

what expended; the number of patients, foreign and domestic, confined in each; the number received and discharged each year; and such other facts and suggestions as they may deem important; which reports the governor shall communicate to the legislature at its regular session.

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CHAPTER LXV.

MILITIA.

ARTICLE I.

§ 1. The enrolled militia shall be continued as at present organized in divisions, brigades, regiments, battalions, and companies.

Divisions, brigades, regiments, &c.

1. Divisions, brigades, and regiments may be laid off, altered, and modified by the governor for the time being, as he may deem expedient.

2. The field officers of regiments shall have power to form, alter, and modify, from time to time, the boundaries of battalions and companies within their respective regiments, a majority concurring therein.

3. The adjutant of each regiment shall keep a record of the boundaries of battalions and companies as formed, altered, or modified.

§ 2. The following persons shall be exempt from militia duty: All persons under eighteen and over forty-five years of age; all negroes, mulattoes, and indians; the judges of the respective courts; the treasurer, auditor, attorney general, register of the land office, and their clerks; attorneys of the commonwealth; professors and tutors of public seminaries of learning; the public printer and such as may be necessarily employed in his office; ordained ministers of religious societies; keepers of public jails; and the guards employed in the penitentiary house.

Who exempt from militia duty.

1. But all of said persons between the ages of eighteen and forty-five years, except ministers of the gospel, negroes, mulattoes, and indians, shall be liable to be called into service in a time of war.

2. All not exempted shall perform militia duty.

§ 3. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal services of one dollar per day for each muster.

Persons conscientiously scrupulous as to bearing arms.

1. In case of a call for actual service, such persons shall be allowed to furnish an able-bodied substitute in lieu of their own personal services.

Substitutes.

2. If such substitute be not furnished, the captain of the detachment may hire a substitute for such conscientious person, who shall be bound to pay the substitute the sum agreed on by the captain, if the same do not exceed one

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dollar per day ; and the same, if not paid, may be recovered by the substitute in any court of record, and coerced by execution against his person or property.

ARTICLE II.

Officers elected, and terms of service.

§ 1. All militia officers whose appointments are not in this chapter otherwise provided for, shall be elected by the persons subject to militia duty within their respective companies, regiments, brigades, and divisions, in the manner following :

1. A captain, first and second lieutenant for each company, by the persons subject to militia duty therein—whose term of service shall be three years.

2. A colonel, lieutenant colonel, and a major for each regiment, by those subject to militia duty therein—whose term of service shall be four years.

3. A brigadier general for each brigade, by the persons subject to militia duty therein—whose term of service shall be five years.

4. A major general for each division, by the persons subject to militia duty therein—whose term of service shall be six years.

Sheriff to attend election.

§ 2. The sheriff of each county, or his deputy, shall attend the regimental muster in his county, and, with the field officers of the regiment, shall superintend the election of the regimental, brigade, and division officers, as directed by this chapter.

Company officers.

The company officers shall be elected at the times and places that the respective company musters are held, and shall be superintended by the lieutenant colonel or major to whose battalion the company is attached, who shall ascertain and decide the result of the election, and make return thereof as the sheriff is directed to do in case of field officers ; and vacancies shall be filled in like manner.

Names and votes to be forwarded to governor.

1. The sheriff shall, within ten days after such election, forward to the governor, in a letter directed to the adjutant general, the names of all persons elected to offices within the respective regiments of his county.

2. He shall, in like time and manner, transmit the number of votes received by each person for brigadier generals and major generals, designating which office each person was voted for.

Tie.

§ 3. After the close of an election for any officer under the grade of a brigadier general, the sheriff holding the election shall ascertain the number of votes cast for each person for the respective offices ; and in all cases where two persons receive the highest and an equal number of votes, the election shall be determined by lot in the presence of the officers superintending the election, and that person returned elected who is successful. If a similar tie takes place in the election of a brigadier or major general,

the same shall be determined by lot in the presence of the governor and adjutant general.

§ 4. Commissions shall be issued and forwarded by the governor to the persons elected to each office.

1. When vacancies occur in any of said offices, or in the absence of any of the officers, the next in rank shall discharge the duties thereof.

2. Vacancies shall be filled by election at the next regimental or company muster, and returns made and commissions shall be issued for the unexpired term, as is directed in other elections.

§ 5. The governor shall appoint the adjutant general and his other staff officers. The major generals, brigadier generals, and colonels of regiments, shall appoint their respective staff officers.

1. The governor shall issue their commissions.

2. The captains of companies shall appoint their non-commissioned officers.

3. All staff and non-commissioned officers shall hold their offices for the same periods of their respective principals.

§ 6. The officers elected in June, 1851, shall hold their respective offices for the period prescribed in this chapter: All persons elected or appointed to office shall hold the same until their successors are commissioned and qualified.

§ 7. In all calls for volunteers, either by the state or general government, the necessary officers shall be chosen, appointed, and commissioned as provided for in this chapter.

§ 8. Each major general shall be entitled to two aids, and each division shall be entitled to one division inspector and one division quartermaster.

1. Each brigadier general shall be entitled to one aid, one brigade inspector, and one brigade quartermaster.

2. Colonels commandants of regiments shall have one adjutant, one quartermaster, one paymaster, one judge advocate, one surgeon, and one surgeon's mate; also, the following non-commissioned officers, to-wit: one sergeant major, one quartermaster sergeant, and one drum and one fife major.

3. The appointment of all division, brigade, and regimental staff, shall be announced by a general order of the officer making the same; and each staff officer shall remain in office during the term of the officer making such appointment, unless removed by such officer. Vacancies may be filled in the same manner that original appointments are made.

ARTICLE III.

§ 1. The governor shall have power to provide for raising companies of cavalry, artillery, light infantry, and riflemen, agreeably to the laws of the United States, at his discretion; and when raised and organized, shall be sub-

1851.

Commissions.

Vacancies.

Officers to be appointed.

Officers elected in June, 1851.

Officers of volunteers.

Officers of divisions, brigades, regiments, &c.

Power of governor to raise troops.

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Duties of major generals.

ject to the laws and regulations of the United States and of this state.

§ 2. It shall be the duty of the major generals to receive from the adjutant general requisitions of troops made upon their divisions; and shall, without delay, make a detail on the brigades in their divisions, agreeably to the last returns made by the brigade majors, and shall issue his orders to the brigadiers accordingly; he shall attend the several regimental musters composing his division, once in every two years at least; and may, at any time, attend any muster or review, and give any order for disciplining the troops he may think proper.

Brigadier general.

§ 3. It shall be the duty of the brigadier generals to receive from the adjutant general or major general requisitions for troops on their brigades, and shall make a detail on their regiments, agreeably to the last returns made by the regiments of their strength, and give orders to the commandants thereof accordingly; it shall also be his duty to issue his orders, appointing the time of regimental and battalion musters, in each year, written notices of which he shall cause to be given to the commandants of regiments, on or before the first day of February in each year; he shall also furnish his major general with the days appointed for his regimental musters and reviews; he shall visit each regiment in his brigade annually, on their regimental muster days, and review them; and whenever present at any muster or review within his brigade, may order and direct the discipline and exercise thereof.

Duties of commandants of regiments.

§ 4. Commandants of regiments shall receive from the adjutant or brigadier generals requisitions for troops made on their regiments, and shall make a detail on the several companies composing the regiment, agreeably to the strength of the companies, and issue his orders to the respective commandants thereof accordingly; he shall receive the written orders of the commanding officer of the brigade, for appointing the time of regimental and battalion parades in each year; and shall give like notice thereof to the commandants of battalions, on or before the fifteenth day of February annually, to which he shall add the time and place at which his regimental training shall take place; also the time and place of meeting of the court of assessment for the trial of those who have failed to do duty according to law. It shall be the duty of commandants of regiments to attend the regimental and battalion musters; to have the roll of officers called; to note delinquencies of company or platoon officers, and report the same to the court of assessment; or if a field officer be delinquent, the adjutant shall report him to the brigadier general. Commandants and field officers of regiments may attend any company muster within their respective commands, and give such orders for their discipline and training as they

shall think proper. Commandants of regiments shall also notify their major and brigadier generals of the place at which their regimental and battalion trainings are to be held.

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§ 5. It shall be the duty of the major and brigadier generals and commandants of regiments, upon receiving notice of an invasion or insurrection, immediately to embody the whole, or such portion of their command as they may deem expedient for the emergency, and give the earliest notice thereof to their next superior officer, and to the governor.

Upon notice of invasion or insurrection.

§ 6. It shall be the duty of commandants of battalions to receive the written orders of commandants of regiments, of the days on which regimental and battalion musters shall be appointed for the year, and give written notice thereof to the commandants of companies, within their respective battalions, on or before the first day of March, in every year, adding thereto the places of holding such musters and court of assessment; they shall notify the commandants of regiments of the place at which they will muster, and shall exercise their battalions in person.

Duties of commandants of battalions.

§ 7. Commandants of companies shall receive from the commandants of battalions written notices of the days and places where the regimental and battalion musters will be held in each year, to which commandants of companies shall add the days, time, and places appointed for their company musters, as well as the time and place of the sitting of the court of assessment; and they shall, on or before the fifteenth day of March in each year, deliver a notice, in writing, of the musters so ordered, and the court of assessment, to the non-commissioned officers of his company, whose duty it shall be to receive, and deliver to or leave at the place of lodging or usual place of abode of each subaltern and non-commissioned officer, musician, and private, in the company to which he belongs, a like written notice, on or before the first day of April in each year; but in all cases where persons may have removed into the bounds of any company, or arrived at the age of eighteen years, after the first day of April in any year, commandants of companies shall, as soon as possible, place them on his muster roll, and cause like notices to be served on them. Three days notice of any muster shall be lawful; and shall, from time to time, cause all persons to be enrolled and notified to attend muster, who, from accident or neglect, were not previously enrolled and notified. When marching orders are given, captains commanding the companies detailed for service, may appoint some place within the bounds of the regiment or regiments from which their companies were detailed, where they may receive substitutes, in lieu of those detailed for service, provided they are able-bodied men, and such as they shall approve.

Duties of commandants of companies.

Substitutes.

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of; and if approved of, they shall receipt for the same to the person furnishing such substitute, which shall be evidence to the officer from whose company such detail is made, that such person is entitled to credit, which credit shall be entered in the company book for the time the detachment has served, and no longer; and if the substitute enlists in the army of the United States, the credit shall be given for the full time such detachment was detailed for service.

Nothing herein contained shall be so construed as to authorize the transfer of any receipt for a substitute, or discharge for service performed, so as to clear any other person from being subject to a detail for duty. Every person furnishing a substitute shall, notwithstanding, be bound to attend all musters directed by this act.

Duties of subaltern officers.

§ 8. It shall be the especial duty of the subaltern officers of companies to aid and assist in the exercise and discipline of the company, and to report every defalcation, contempt, ridicule, or disobedience, which shall be manifested in the government and exercise thereof.

Obedience to orders.

§ 9. All officers, of every grade, shall implicitly obey the orders of their superiors; and in case of the absence, death, or inability of any officer, the next in rank shall take the command, and discharge all the duties required by this act of his superior officer, during such vacancy, absence, or inability.

Failure of brigadier general to notify time and place of musters.

§ 10. In case of the failure of any brigadier general to notify the commandants of regiments of the time of holding the regimental and battalion musters, within the bounds of their brigades, by the time prescribed by law, the commandants of such regiments shall proceed to appoint their own regimental and battalion musters; and in case of failure on his part, commandants of battalions composing such regiments, shall appoint, and give notice of the time and places of holding their battalion musters; and, in case of failure, commandants of companies shall give notice of their company musters.

Adjutant general; residence and duties.

§ 11. The adjutant general shall reside at the seat of government, or in its vicinity, and keep his office in the town of Frankfort; he shall obey all orders given him by the governor and commander-in-chief, in relation to the duties of his office; and shall keep a fair record of all orders and communications which he shall receive, from time to time; he shall receive the annual returns from the major and brigadier generals, from which he shall make out a general return of the whole strength of the militia of this state, which he shall lay before the commander-in-chief for his inspection, on or before the tenth day of December in each year; one copy of which he shall, without delay, transmit to the secretary of war of the United States, and the other he shall file in his office; he shall provide

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blank abstracts of annual returns for divisions, brigades, regiments, and companies—which forms, when made out, shall exhibit the strength, arms, and accoutrements of such division, brigade, regiment, and company, and a description of the corps composing the same; and the public printer is hereby directed to furnish the same, on the application of the adjutant general, as may be required for the use of his office. When a detachment is ordered into the service of this state, or of the United States, he shall furnish the necessary blank muster rolls, morning, weekly, and monthly reports; and shall keep a record of all general and field officers in commission, from which a detail may be made, whenever it may be necessary. That it shall be the duty of the adjutant general, on or before the tenth day of December in each year, to report to the governor and commander-in-chief, the failure of any major general to make his return, within the time prescribed by law; and to report to each major general, the failure of any brigadier general in his division, for failing to make their returns within the time required by law. It shall be the duty of the adjutant general to receive from the governor and commander-in-chief, or from the secretary of state, all commissions, or communications relating to the militia; and if they are intended for a division, to direct them to the commandant of such division; and if intended for any other officer, he shall forward them to the brigadier general commanding the brigade to which such officer belongs; it shall be his duty to frank all communications thus forwarded by mail, by indorsing his official name thereon. It shall be the duty of the adjutant general, once in every week, to deliver to the governor and commander-in-chief, or to the secretary of state, every communication which he shall have received, relating to the militia, which may be intended for executive action or consideration. It shall be the duty of the adjutant general, on or before the fifteenth day of February in each year, to transmit, by mail, to each major general, blank abstracts of annual returns of the strength of their divisions; and to each brigadier general, blank abstracts of the brigade, regiments, and companies attached to their command. It shall also be the duty of the adjutant general to frank all letters or packages addressed to a major or brigadier general, by the quartermaster general, which shall be handed to him for that purpose; and shall receive all returns made to the quartermaster general, which he shall hand to him on application. It shall also be the duty of the adjutant general to attend and furnish any court of inquiry, which may be ordered by the governor and commander-in-chief, under the provisions of this act, when convened, with the names of the major generals who may have failed to make their annual returns for the year preceding, within the time pre-

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scribed by law; and shall, moreover, cause a notice to be served on the major generals charged with being in default, of the time of meeting of such court, at least twenty days previous to the sitting thereof; which notice shall be served by any general or field officer, or by any general staff officer, and by him returned to the adjutant general's office, with an affidavit of the service thereof, as soon as practicable.

Quartermaster
general; resi-
dence and du-
ties.

§ 12. The quartermaster general shall reside at the seat of government, or in its vicinity, and shall keep his office in the town of Frankfort; he shall keep a fair record of all orders and communications which he shall, from time to time, receive from the governor and commander-in-chief, and shall obey all orders from him, relative to the duties of his office; he shall collect, receive, and safely keep in the state arsenal all arms and military stores of every description, which shall be subject to the order of the governor and commander-in-chief. The quartermaster general shall, on or before the first day of December in each year, furnish the adjutant general with a general abstract, showing the number of arms and accoutrements, ordnance and ordnance stores, of every description, then in the arsenal. The secretary of state shall, from time to time, furnish the quartermaster general with a list of the officers, to enable him to direct the blanks to the several officers entitled thereto.

To whose or-
ders subject.

§ 13. Aids-de-camp, division inspectors, and brigade majors, shall be subject to and execute the orders of their generals and adjutant general; division and brigade quartermasters, the orders of their generals and quartermaster general; and all regimental staff officers shall carry and execute the orders of their field officers.

Duties of brig-
ade majors.

§ 14. It shall be the duty of the brigade majors to attend the several battalion and regimental musters, to superintend and correct the training, if necessary; to examine the condition of the public arms particularly, and to report the condition of the same to his brigadier general, that he may make report to the quartermaster general. And when a detachment is ordered from his brigade, into the service of this state or of the United States, he shall make out triplicate muster rolls, one of which he shall forward to the adjutant general, one to the officer commanding the detachment, and one to the brigadier general of his brigade, to be filed by him.

ARTICLE IV.

Courts martial,
for what offenses.

§ 1. Courts martial shall be appointed for the trial of all officers for neglect of duty, disobedience of orders, or for disorderly and ungentlemanly conduct or behavior; they shall have power to cashier, reprimand, or fine, at their discretion, but subject to an appeal.

§ 2. Judge advocates, (except regimental) and provost marshals shall be appointed by the several courts martial hereafter ordered. It shall be the duty of the judge advocates to said court to take and safely keep a true statement of all proceedings, whether pleas, evidence, or defense, and the decision of the court thereon; to prosecute for the state, and to make out a fair copy of the proceedings of said court, with their sentence thereon, which, when signed by the president thereof, shall be delivered to the officer ordering such court martial, within twenty days after their adjournment. The provost marshal shall attend on and execute the orders of the court.

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Judge advocates, &c., their duties.

§ 3. General courts martial shall be ordered by the adjutant general, by command of the governor, whenever he may think it necessary, where a major general shall preside; and be composed of twelve additional members, two of whom, at least, shall be brigadier generals, and the others field officers.

General courts martial.

§ 4. Division courts martial shall be ordered at the discretion of a major general, where a brigadier general shall preside; and to be composed of twelve additional members, two of whom, at least, shall be colonels, and the others field officers.

Division courts martial.

§ 5. Brigade courts martial may be ordered at the discretion of a brigadier general, where a colonel shall preside; and be composed of twelve additional members, two of whom, at least, shall be field officers, and the others captains.

Brigade courts martial.

§ 6. Regimental courts martial may be ordered by the commandants of regiments, where a lieutenant colonel or major shall preside; and be composed of twelve additional members, two of whom, at least, shall be captains, and the others lieutenants, cornets, or ensigns.

Regimental courts martial.

§ 7. In all courts martial, whether general, division, brigade, or regimental, when the full number of officers summoned shall fail to attend, the court shall proceed to the trial, provided a majority of the members shall attend who have been summoned on said court; and no exception or challenge shall be made to any other member, if good cause be shown, to the satisfaction of the court. The proceedings of any courts martial authorized or ordered under this chapter, shall be submitted to the officer ordering the same, for his approval or disapproval; and in case the sentence is *disapproved*, he shall, within twenty days, return the proceedings to the president of the court, with his objections, who shall again convene the court and reconsider the same; and if, after deliberation, they shall adhere to their former decision, the sentence shall stand confirmed, and the officer ordering the court shall issue his orders dissolving the same, and cause the sentence to be carried into effect, subject, however, to an appeal by the accused to

To proceed to trial if majority attend.

Proceedings when sentence disapproved.

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the superior officer next in rank; and in case of a division court martial, to the governor and commander-in-chief, for their final approval or reversal.

Opinion not
to be reversed
for want of for-
mality.

The opinion of any court martial shall not be reversed or set aside for the want of any formality of proceeding, or the use of any technical terms; and that it appear from the face of the proceedings of the court, that the accused had a fair and impartial trial on the merits of the case.

Who shall be
tried in respec-
tive courts mar-
tial.

§ 8. In general courts martial, none shall be tried below the grade of a general officer; the adjutant and quartermaster generals, who shall rank as brigadiers; in division courts martial, none shall be tried below a field officer or division staff; in brigade courts martial, field officers and brigade staff may be tried, and a captain, if good cause be shown; in regimental courts martial, all officers below the grade of a field officer, as well as the regimental staff officers, shall be tried.

Oath of judge
advocate.

§ 9. Upon the convening of either of the courts herein directed, the president thereof shall administer to the judge advocate the following oath or affirmation: "You do solemnly swear (or affirm) that you will truly and faithfully execute the duties of the office of judge advocate to this court, so long as you remain in office, to the best of your ability, and according to the laws of this state and of the United States; and that you will not, when secrecy is required, disclose or discover the opinion of this court, unless to the officer ordering the same, until he has approved or disapproved the sentence of the court: nor will you, at any time, disclose or discover the opinion of any particular member of the court martial, unless required to give evidence in a court of justice: so help you God;" which oath shall be deemed sufficient for such judge advocate while he continues to act. The judge advocate shall then proceed to qualify the president and members of the court, by administering to them the following oath or affirmation: "You, and each of you, do solemnly swear (or affirm) that you will well and truly try and determine, according to evidence, agreeably to justice, the best of your understanding, and the laws of this state, and of the United States, between the commonwealth of Kentucky, or of the United States, and the prisoner to be tried; and that you will not disclose the opinion of this court martial until made public by the proper officer; nor will you, at any time, disclose the vote or opinion of any particular member thereof, unless called upon by a court of justice to give evidence: so help you God." Whereupon, the court shall proceed to the business laid before them, and adjourn from day to day till finished; of which a complete record shall be made, and signed by the president and judge advocate, when the court shall be adjourned. Upon the disclosure of the sentence of any court martial, the accused may appeal there-

Oath of presi-
dent and mem-
bers.

Appeal.

from to the officer next superior in rank to the one ordering the court, by filing a written notice with the officer to whom the appeal is made, within thirty days after the sentence is published; whose duty it shall be to order up before him the proceedings of such court for his final decision, which shall be given in thirty days.

§ 10. Any officer, non-commissioned officer, musician, or private, or any private citizen, having cause of complaint against any commissioned officer, shall make out his charge in due form; and having made oath, before some justice of the peace, that the charges he is about to exhibit are true, to the best of his knowledge and belief, and file the same with the governor and commander-in-chief, major general, brigadier general, or commandant of a regiment, to whom the officer charged is directly responsible by his station in the line; the governor, major general, brigadier general, or commandant of a regiment, with whom the charges shall be filed, may, at his discretion, order a court of inquiry, or an arrest and court martial, for the trial of such officer; and the court so ordered, shall meet in thirty days from the time of an arrest; of the time and place of meeting, the officer arrested shall have at least fifteen days notice, together with a copy of the charges exhibited against him.

If, upon the meeting of such court, it shall appear, from the absence of witnesses, inability (from sickness) of the parties to attend, or for any good cause shown, a fair and impartial trial could not then be had, the court may adjourn to a future day, not exceeding three months at any one time.

§ 11. Commandants of regiments are authorized and directed to order courts martial, or courts of inquiry, at any time when it may appear to them necessary, to try persons for failing to do duty, or persons failing to perform tours of duty, when called on for that purpose, or for the trial of any non-commissioned officer or private, who may hereafter desert from the service of the state, or of the United States, or to excuse any person (disabled or for other cause,) from doing militia duty during their disability, or for the trial of delinquents of any description.

Nothing herein contained shall be so construed as to alter the day on which the annual court of assessment shall meet.

§ 12. The judge advocate of every general division, or brigade court martial, or court of inquiry, which may be ordered under the provisions of this act, shall be allowed the sum of two dollars per day, for his services while attending the court; the provost marshal shall be allowed one dollar per day, and each witness, legally summoned by process, from the president of the court, fifty cents per day for attendance, with an addition of mileage, as in other cases.

1832.

Upon charges against an officer, sworn to & filed.

Governor may order courts martial.

Time of meeting and notice.

May be adjourned.

Courts martial ordered by commandants of regiments.

Pay of judge advocates.

1859.

ARTICLE V.

Court of as-
sessment
of
fines.

Oaths.

Proceedings.

Judge advo-
cate to make out
list of fines for
paymaster, sher-
iff, &c.

§ 1. A court of assessment of fines on delinquents shall be held for each regiment on the third Thursday in October in each year; which court shall be composed of a majority of the captains of such regiment, the eldest of whom present shall preside; but if any captain be absent, the next officer in rank in such company shall attend. The court, together with the regimental judge advocate and the provost marshal, may proceed to business; but in the absence of any judge advocate, the court may proceed to appoint one, *pro tempore*; all commissioned company officers may attend, who, *ex officio*, shall be members of the court. Previous to their proceeding to do any business, the president shall administer to the judge advocate the following oath or affirmation: "You do solemnly swear (or affirm) that you will truly and faithfully execute the duties of judge advocate to this court, so long as you remain in office, to the best of your ability, and according to the laws of this state: so help you God;" and the judge advocate shall, in like manner, proceed to qualify the members, by administering to them the following oath: "You, and each of you, do swear (or affirm) that you will truly and diligently inquire of, and decide upon the several delinquencies reported to you, and in every case decide according to law, and the best of your skill and understanding, without favor or hope of reward: so help you God." The court being thus organized, shall proceed to examine all returns of delinquents laid before them; to have the delinquents called to show cause why judgment should not be awarded against them for failing to do their duty according to law; and to deliver their opinion in every case to the judge advocate, who is hereby directed to make a fair record thereof. The court of assessment shall also have the power of excusing from militia duty persons claiming to be over forty years of age, and persons disabled, during such inability, and of hearing evidence to determine the same; they shall have power to adjourn from day to day, and to compel the attendance of absent members; and when their business is completed, the president shall sign the record of their proceedings, and the court for that year shall be dissolved.

§ 2. Within twenty days after the adjournment of every regimental court of assessment, the judge advocate thereof shall make out three fair lists of the fines assessed, and deliver the same to the commandant of the regiment, who shall furnish the regimental paymaster with one copy, the high sheriff of the county with one other copy, on or before the first day of February ensuing, in each year, for which he shall take his receipt, and one copy he shall retain. Any judge advocate failing to make out, and hand

to the commandants of regiments, the list of fines assessed within the time prescribed by this act, shall be fined at the discretion of a regimental court martial, in any sum not less than ten dollars, nor more than one hundred dollars; and any commandant of a regiment failing to place such lists of fines in the hands of the sheriff, on or before the first day of February in each year, shall be tried and fined at the discretion of a brigade court martial, in any sum not less than twenty dollars, and not exceeding one hundred dollars, and may, in addition thereto, be cashiered. Each and every sheriff, or deputy sheriff, shall receive of, and receipt to, the commandants of regiments, for all lists of fines against delinquents, adjudged by any courts of assessment, inquiry, or courts martial, and, on refusing so to do, shall be fined one hundred dollars, to be recovered of him on motion of the regimental paymaster, made before the county court. The sheriff, into whose hands the lists of fines assessed by the court may be placed, shall have power to apply for and receive the same; levy, and make distress therefor, as in cases of county levy, if payment be withheld; and shall be entitled to the same fees for distress as are allowed in the collection of the public revenue. At the sitting of the annual courts of assessment, the sheriffs may return to said court, upon oath, a list of all insolvent delinquents of whom he cannot collect the fines, for their examination; and such of the insolvent list as the court may allow and approve of, the sheriff shall have a credit for in his settlement with the paymaster. And it shall be the duty of the judge advocate, within ten days from the adjournment of the court, to furnish the regimental paymaster with a certified copy of the insolvent delinquents thus allowed by the court. On or before the first day of January in each year, the sheriff shall settle with, and pay over to the regimental paymaster all sums by them collected, and for which they are accountable, (reserving a commission of nine per cent. upon the amount paid to the regimental paymaster,) for which he shall take his receipt therefor, a copy of which he shall have recorded in the next succeeding county court, for the county of which he is sheriff; but in case the sheriff shall fail or refuse to settle with, and pay to the paymaster as aforesaid, the regimental paymaster shall immediately proceed, by motion in the county court, in the same manner that moneys are recovered by the counties against their public collectors, to collect and recover the money due from the sheriff and his deputies, or either of them. That, hereafter, when a court martial or court of inquiry may be ordered, under the provisions of this chapter, and the president of said court shall not attend, the next highest officer in rank, who may be present, shall act as president of said court.

1852.

Penalty for
failure.Sheriff's duty
and powers.Insolvent de-
linquents.Sheriff to make
settlement.

1852.

Bond and oath
of paymaster.

§ 3. The regimental paymaster shall, before he acts as such, enter into bond, with sufficient security, in the county court, to be approved by the court, to the commonwealth of Kentucky, in the sum of one thousand dollars, conditioned for the just fulfillment of all the duties enjoined on him by this chapter; which bond shall not be void on the first or any subsequent recovery; and shall also take the following oath or affirmation, to be administered by the presiding officer of the court, or by the clerk thereof: "You do solemnly swear that you will, as paymaster to the _____ regiment of Kentucky militia, truly and honestly perform the duty as such, to the best of your knowledge and capacity; and that you will render a just and true account, when called upon by the proper tribunal."

Settlement
with paymaster,
&c.

§ 4. It shall be the duty of the field officers of every regiment to call upon, and settle the accounts of the regimental paymaster, in the month of January in each year, and oftener if they think proper; which settlement, signed by themselves and the paymaster, they shall cause to be recorded in the court of their county, at the next court after such settlement is made, and the clerk of the court shall perform the services without fee. The money collected and paid to the paymaster shall be subject alone to orders drawn by the commandant of the regiment, for regimental purposes, to-wit: the purchase of regimental and battalion standards, drums, fifes, bugles, &c., music at the several regimental, battalion, and company musters; the purchase of arms, teaching military music, &c. All orders given by the commandant of the regiment on the paymaster, for the payment of money, shall be filed and preserved by him, as vouchers in his settlement.

* To what or-
ders money sub-
ject.Claimants to
be paid accord-
ing to seniority.

§ 5. That it shall be the duty of the regimental paymaster, in the payment of claims, to respect seniority, and pay no younger claims, while those of an older date are outstanding, provided the elder claimant has given due notice to the paymaster of his claim; and the paymaster, in settling with the sheriff, shall not allow younger claims that may have been purchased up by him, until all the older claims which may have been presented to him for payment, shall have been discharged. The regimental paymaster shall be allowed, as a compensation for his services, six per cent. on all money received and disbursed by him. That, upon the failure of any regimental paymaster to pay over, to the orders of the commandant thereof, the whole, or any part of the funds belonging to the regiment, in his hands, the same may be recovered on motion of the claimant or commandant of the regiment, in the county court where such paymaster's bond may be filed; and the said court is authorized to give judgment against such paymaster and his security, together with ten per cent. damages thereon, provided ten days' notice shall be given of

Paymaster's
compensation.

such motion. That it shall be the duty of the paymaster or paymasters of regiments, from which a new regiment may be formed hereafter, to liquidate, in the presence of the paymaster of the new regiment, the accounts of the same; taking into consideration all debts that are due, and in favor of, as well as those against such regiment or regiments, at the time of formation, having regard to colors, drums, and fises in the possession of either; and if it shall appear that there is a balance in favor of the new regiment, it shall be paid over to the paymaster thereof, in proportion to the number of men taken from the old regiment; but if it shall appear that the old regiment is in debt, then, in that event, the new regimental paymaster shall assume a like proportionable part of said debt, and pay the same under the rules and regulations prescribed by law respecting seniority of claims.

§ 6. That it shall be the duty of the judge advocate of every court of assessment, upon the application of the commanding officer of each company within his regiment, to furnish such officer with a list of all fines assessed on every member of his company, at the preceding court of assessment; and it shall be the duty of every commandant of a company, at his April muster in each year, to make public declaration to his company of the names of each and every person fined, belonging thereto, at the last annual court of assessment held for his regiment.

§ 7. When any person shall, after being fined by any court of assessment, inquiry, or court martial, remove into the bounds of another regiment, or into any other of the counties of this state, without the paying the same, it shall be lawful for the president of such court, or the commanding officer of the regiment where such fine was imposed, to send a certified copy of such fine into the county where such delinquent shall have removed, and put the same into the hands of the sheriff of said county, who shall proceed to collect and account therefor, in the same manner that other fines are collected and accounted for. It shall be the duty of the commandants of regiments, on or before the first day of March in each year, to re-list with the sheriff of his county all such fines as were returned delinquent by the sheriff in the preceding year, which were allowed by the court of assessment, (except those who have removed,) under the same penalties of each, for neglect to re-list, or for refusing to collect and account for, as is provided in the first section of this article.

§ 8. All courts martial, courts of inquiry, and courts of assessment, may issue summons for witnesses; or, previous to the sitting of such courts, the president thereof, or any field officer, being a member of the court, may issue such summons or subpoena; the process to be served by the provost marshal, or any sheriff or constable; and if such wit-

1852.

Duty when new regiment formed.

Judge advocate to furnish list of fines to commander of company.

When person fined removes into bounds of another regiment.

Delinquents to be re-listed.

Witnesses may be summoned; fined for failing to attend.

1852.

Members failing to attend, court to stand adjourned from day to day.

ness fail to attend, without a reasonable excuse, he shall be fined by the court in any sum not exceeding three dollars. And it is hereby declared, that the several courts provided for in this chapter possess competent power to carry into execution the regulations granted.

§ 9. And whereas, it may happen that the officers of regiments may be prevented by bad weather, or by unavoidable accidents, from holding their regimental courts of assessment on the day of their annual meeting, or a sufficient number to compose said court may not attend; in such cases the court shall stand adjourned from day to day, until a sufficient number shall attend to form a court; and those attending shall have power to send for absent members, and award such fines for non-attendance as they may think reasonable, not less than five nor more than ten dollars each per day. The powers herein granted may be exercised by any court ordered under this chapter.

Adjutant to note and return delinquencies of captains, &c.

§ 10. It shall be the duty of the adjutants of regiments, at the regimental drill and battalion musters, to note and report all delinquencies of captains, subalterns, and regimental staff officers which may happen; and shall return such lists of delinquents to the next court of assessment held in his regiment; which court shall have power to fine such delinquents for their neglect. The adjutant shall keep a record of the bounds of his regiment, battalions, and companies, and also of all modifications or boundaries of new companies made hereafter.

Captains to return delinquencies.

§ 11. It shall be the duty of all captains and commandants of companies to make a due return of all delinquencies which may happen within that year, either as to absence, arms, or accoutrements, and as to a failure or refusal to perform duty when present; also, of all non-commissioned officers, musicians, and privates, who may have produced disturbance at any muster of their companies, battalion, or regiment; which return shall be delivered to the judge advocate on or before the third Thursday in October, in each year.

One known to be sick not to be returned.

1. No captain or other officer shall be bound to return any person as a delinquent, who, to his knowledge, or the knowledge of any creditable person present, was sick, or unable to attend by reason of any bodily infirmity, or was absent from the county on indispensable business, at the time of such muster.

Excuses to be made on oath.

Proclamation of delinquents to be made.

Non-commissioned officers.

2. All excuses shall be made on oath, which may be administered by the captain or commanding officer of the company. Commandants of companies shall, at their regimental muster in each year, make a public proclamation of all the delinquents they are about to return to the court of assessment. It shall be the duty of commandants of companies, at their April musters annually, to appoint their non-commissioned officers; and, as often thereafter as may

be necessary, to fill vacancies, who shall not be compelled to serve more than one year; and it shall also be their duty, on or before the tenth day of May, annually, to furnish the sergeant major of the regiment to which he belongs, a list of the names of such appointments, which the sergeant major shall keep, to detail therefrom, when necessary. Commandants of companies shall have power to discharge any person from militia duty, upon his making an affidavit before some justice of the peace, and producing his certificate thereof, that he is, from the best information he can obtain, over the age of forty-five years.

1852.

Commandant of company may discharge from militia duty.

§ 12. All non-commissioned officers who deliver notices to the subaltern officers, non-commissioned officers, musicians, and privates, of the times and places of holding musters, shall return to their respective commandants of companies, on oath, from time to time, a list containing the names of the persons by them notified; and if not delivered by them within the time prescribed by law, he shall note the time such notice was delivered; which oath commandants of companies are hereby authorized to administer; which list or lists commandants of companies shall return to the regimental judge advocate, on or before the day on which the court of assessment meets, to be by him laid before the court; which shall be sufficient evidence of notice having been served; and upon any charge, in writing, lodged with the judge advocate of such court, prior to or during its sitting, of a failure or neglect of any officer, for which he may, by law, be subject to a fine, it shall be lawful for the court, when the officer or officers are below the grade of field officers, to determine the same; subject, however, to an appeal to the court of appeals.

List of persons notified of muster to be returned on oath.

§ 13. All fines assessed and collected under any of the provisions of this chapter, on any general, or general staff officer, shall be paid into the public treasury; and it shall be the duty of all officers ordering such courts, to cause a list of the fines so assessed to be placed in the hands of the sheriff of the county in which such delinquent resides, within thirty days after a final decision is had thereon, and take duplicate receipts of the sheriff therefor, one of which he shall transmit to the auditor of public accounts, by mail or otherwise, who shall cause the sheriff to settle and account for, as in case of other public dues, within six months after such lists shall have been placed in his hands.

Fines to be paid into public treasury.

List to be placed in hands of sheriff.

§ 14. The field officers of each regiment, or a majority of them, are hereby constituted a court of appeals, who, with the regimental judge advocate, shall meet on the first Monday in May, in each year, who, having taken an oath before the judge advocate to act impartially, shall have power to remit all fines assessed in their regiments, (those on themselves excepted,) if, in their opinion, they have been unjustly assessed. All persons fined at a regimental court.

Field officers to form court of appeals.

1852.

How appeals
taken.

of assessment, conceiving themselves aggrieved thereby, shall and may, at any time previous to the first Monday in May next succeeding the sitting of the court of assessment, appeal therefrom to the court of appeals. In all cases, appeals shall be taken in the following manner; to-wit: The person appealing shall go before some justice of the peace for his county, and make oath that he considers himself aggrieved by the decision of the court of assessment, and shall state his defense in writing, and take such magistrate's certificate of appeal, as well as of his defense and excuse, and file the same with the commandant of the regiment, or the judge advocate, which shall be sufficient for such appeal to be heard.

Failure to ap-
peal in writing
not to debar
hearing.

In case any person should fail to make such appeal in writing, it shall not debar his being heard before the court of appeals upon the merits of the case. Any excuse or defense made before the court of appeals or assessment, shall be on oath, which shall be administered by the judge advocate of the court. The court of appeals shall meet and sit at the same place where the regimental court of assessment, held in the preceding October, shall have assembled, and shall confirm or reverse the decision of the regimental court of assessment. The regimental judge advocate shall attest and record the proceedings of said court, or, on his failure, they shall appoint one *pro tempore*; and shall, within ten days after the adjournment of said court, certify to the sheriff of the county the decision had on all cases where the fines assessed have been remitted; and also to furnish the regimental paymaster with a copy, to enable him to settle with the sheriff. It shall be lawful for the court of appeals to adjourn from day to day, if necessary for the trial of all appeals before them; and if a majority of the court fail to attend, they may adjourn until the first Monday in June following, and continue in session until the business is completed.

General court
of inquiry, when
ordered, and of
whom com-
posed.

§ 15. It shall be the duty of the governor and commander-in-chief, annually, if necessary, to order a general court of inquiry, where a major general shall preside, and to be composed of at least four and not more than eight additional members, consisting of brigadier generals and field officers, none of whom to be delinquents in making their annual returns for the preceding year, to meet at the capitol, in the town of Frankfort, in the month of April or May, to inquire into the delinquency of any major general who may be reported to them by the adjutant general for failing to make the annual returns, and to impose the fines annexed by law for such offense.

If major gen-
eral ineligible, a
brigadier gener'l
shall preside,
&c.

If it shall so happen that the major generals are ineligible on account of their own delinquency, then the president of such court shall be chosen from the brigadier generals; and if the president detailed shall not attend, a ma-

jority of the remaining members shall be sufficient to constitute a court, the eldest and highest in grade of whom shall be president thereof. And the court thus ordered having convened, shall proceed to hear and determine all such cases of delinquency as shall be laid before them by the adjutant general; but shall, previous to entering on the duties assigned them, take the following oath, which shall be administered by the president: "You do solemnly swear that you will truly and faithfully inquire into such delinquencies as shall be submitted to you, and shall assess the fines therefor, as shall seem just, without favor, partiality, or affection; so help you God;" which oath shall be administered to the president by any member of the court. And on the trial of all delinquencies, as here provided for, the court shall not adjudge as good ground of defense, the allegation of the party charged, that any brigadier general under his command had failed to make his annual return; and this provision shall apply, in all cases, on the trial of officers of any grade, for failing to make their annual returns.

§ 16. And the court of inquiry thus established, shall have power, when convened, to appoint a recorder or clerk, and provost marshal, who shall take an oath, to be administered by the president, well and truly to perform the duty assigned them.

§ 17. The president of the courts herein established, shall cause a list of the fines imposed on each delinquent to be placed in the hands of the sheriff of the county where such delinquent officer resides, and take his duplicate receipt therefor; one copy of which he shall transmit to the auditor of public accounts; and the sheriff shall collect and account therefor in the same manner as is directed by the thirteenth section of this article.

§ 18. In all cases where a division, brigade, or regimental court of inquiry may be ordered, to examine into the nature of any accusation or imputation against a commissioned officer, the court shall consist of at least three, and not more than five members, the eldest and highest in rank of whom present shall preside. They shall appoint some suitable person as recorder, to reduce the evidence and proceedings to writing; but they shall not give their opinion on the merits of the case, unless they be thereto specially required by the officer ordering the court. These courts shall have power to summons witnesses, and examine them on oath. The party accused shall also be permitted to cross examine and interrogate the witnesses, so as to investigate fully the accusation in question. The proceedings of all courts of inquiry and of courts martial, shall be authenticated by the signature of the president and recorder or judge advocate, and to be delivered to the officer ordering the same.

1852.

Proceedings.

Oath.

Failure of
brigadier general
to make return,
not good de-
fense.

Power of court
to appoint re-
corder and pro-
vost marshal.

List of fines to
be placed in
hands of sheriff.

When court
ordered to ex-
amine accusa-
tion against
commissioned
officer; of whom
composed, and
how to proceed.

1852.

ARTICLE VI.

Governor may
call militia into
service.

Thirty days a
tour.

None compell-
ed to serve more
than 120 days.

Detachments
for the service
of the United
States, how
made.

§ 1. The governor and commander-in-chief, for the time being, shall have power, whenever he deems it necessary, to call into the service of this state, any number of the militia that he may deem expedient and necessary; and a tour of duty, when employed in the service of this state, shall be estimated at thirty days, from the day of rendezvous; and no militia man shall be compelled to serve for a period of more than one hundred and twenty days in succession. When called into the service of the United States, each militia man or corps shall receive a credit for a tour of duty for every thirty days he may serve, provided in every case the service shall have been rendered. And whenever detachments shall be made from this state, for the service of the United States, they shall be made agreeably to the acts of congress, then in force, taking into view the time, the rank, and the number of officers to the number of men required; and if, at any time, different regulations shall be made by congress, requiring divisions, brigades, regiments, battalions, and companies, to correspond with the organization of the armies of the United States, the governor shall, and he is hereby authorized to conform to such regulations, by the appointment, when elected by the detachment, if necessary, of such additional officers or otherwise, agreeably to the laws regulating the militia of this state, and the militia and armies of the United States.

When requisition made by president, adjutant to detail general & field officers.

§ 2. It shall be the duty of the governor, when requisitions are made on the militia of this state, by the president of the United States, or by any officer authorized to make the same, for the service of the United States, to cause the adjutant general to detail the general and field officers from among such officers in commission as the interest of the service may require.

Governor authorized to call volunteers into service.

§ 3. The governor and commander-in-chief shall, and he is hereby authorized, in all cases of calls on the militia, for the service of this state or of the United States, either by drafts or volunteers to order into the service the whole or any part of the volunteer corps of this state, whether artillery, cavalry, light infantry, or riflemen, by corps or companies, as such, if such troops are required, or will be received; but if not, they shall be detailed to serve as infantry of the line.

When volunteer corps attached to division, brigade, &c., for service of United States.

When requisitions for troops are made, for the service of the United States, any of the volunteer corps may be attached to any division, brigade, or regiment, in such manner as the governor may direct; but if such company shall not have a sufficient number of men for duty, so as to complete the number required by the act of congress for a company, then, and in that case, the governor shall attach another light company so as to complete the

same, with a due proportion of officers from each company, as near as may be; and the number of officers, non-commissioned officers, musicians, and privates, detailed by companies from the light corps, shall go as a credit to the division, brigade, or regiment from which they were ordered and belonged; and the balance of the requisition, if any, shall be made from the infantry of the line; and when the call shall be for either volunteers or drafts, and any light company or corps, being ordered, shall fail or refuse to march, every officer, non-commissioned officer, musician, or private, thus failing or refusing, shall suffer all the fines and penalties as shall or could be inflicted, for like failure, on the infantry of the line.

§ 4. In all cases where a volunteer company of cavalry, artillery, light infantry, or riflemen shall be raised, the men enlisting therein shall not be discharged from their duty in the regiment or company to which they belonged until such troop or company shall have been organized; and no non-commissioned officer or private shall quit the same, after such organization, without the consent of the commandant of such troop or company, while he continues to reside in the bounds thereof, or a dissolution of said company.

ARTICLE VII.

§ 1. The field officers of each regiment in this commonwealth shall have power, and may, from time to time, alter and regulate the boundaries of the battalions and companies belonging to their regiments, so as to make them contain, as nearly as is convenient and practicable, the same number of privates, so that each company shall not consist of less than sixty-four rank and file; and no person shall be permitted to join any volunteer corps, if it reduce the company to which he belonged to a less number than sixty-four rank and file; nor shall any new or volunteer company be hereafter organized, which shall not consist of at least thirty-six rank and file; and if, at any time, any company shall be reduced to a less number than forty-five rank and file, the field officers of the regiment to which such company belongs, shall dissolve the same, and incorporate the members thereof with the adjoining companies; and in case of the refusal of persons to serve as company officers, so as to have any company unofficered for the space of twelve months, the field officers shall, at the expiration of that time, and sooner, if they think necessary, dissolve the same, and attach the men residing within the boundary to the adjoining companies. They shall, at all times, furnish the adjutant with any alterations of boundary, either of battalions or companies, who shall keep a record thereof.

§ 2. All officers shall reside within the bounds of the division, brigade, regiment, or company to which they may severally belong; and the residence of every militia man in

1852.

Penalty for refusing to march.

Members of volunteer companies, when discharged from duty in regiments, &c.

Field officers may change boundaries of regiments.

Number of rank and file in company.

When company may be dissolved.

Residence.

1852.

this state shall be considered to be at the place where he has his lodging.

Officer acting
in absence of su-
perior.

§ 3. Any officer acting in the absence of his superior officer, shall perform all the duties required of his superior, and shall be subject to the same penalties imposed on such superior, for a failure to perform the duties devolving on him by reason of such absence.

Duplicate an-
nual company
returns.

§ 4. Commandants of companies shall, after their military exercises are over, in the month of April, in each and every year, proceed to make out duplicate annual company returns, agreeably to the forms prescribed by the adjutant general; in which shall be expressed the military strength, arms, and accoutrements of such company; and, after countersigning the same, shall deliver one copy to the adjutant of the regiment to which he belongs, on or before the tenth day of July, in each year, and file the other for the use of the company.

Duplicate regi-
mental returns.

§ 5. Commandants of regiments shall, themselves, or cause their adjutants so to do, make out, from the company returns, on or before the tenth day of August, in each year, duplicate regimental returns, agreeably to the forms prescribed by the adjutant general; and, after having examined and signed the same, shall transmit, or cause his adjutant to transmit, one copy to the brigadier general of his brigade, on or before the first day of September, in each year, and retain one copy for the use of the commandant; and in case of the failure of any captain to make his return, the colonel or adjutant shall use the last return made by such company, in completing the regimental return.

Triplicate brig-
ade returns.

§ 6. That it shall be the duty of each brigadier general to make, or cause his brigade major to make out, from the regimental returns of his brigade, triplicate brigade returns; agreeably to the forms prescribed by the adjutant general, on or before the tenth day of September, in each year, for their examination and signature; one of which returns he shall forward to the major general of his division, and the other to the adjutant general, on or before the tenth day of October in each year, and file one for his own use. But in case any commandant of a regiment in his brigade fails to make his annual return, the brigadier general or brigade major shall take the last return made by said regiment, to complete the return of the brigade. They shall also cause their quartermaster to make out two fair estimates, from the returns of the regimental quartermasters, agreeably to forms furnished by the quartermaster general, and lay the same before him, for his examination and signature, on or before the tenth day of September, each year; one copy of which he shall transmit to the major general of his division, and file one for his own use.

Quartermas-
ter's estimates.

§ 7. It shall be the duty of each major general to make

out, or cause their division inspectors to make out, from their brigade returns, duplicate abstracts of division returns, agreeably to the forms prescribed by the adjutant general, on or before the first day of November in each year, and after having examined and signed the same, he shall transmit one copy to the adjutant general, on or before the fifteenth day of November in each year, and retain one for his use. But in case of the failure of a brigadier to make his annual returns, the major general shall not be thereby excused from making his return, but shall use the last return made by the brigadier, to complete his own.

§ 8. It shall be the duty of the commandants of regiments, or their adjutants, to note, on each company return, the day on which it is received, and to return to the annual court of assessment all those who may have failed to make their returns within the time prescribed by law; and the brigadier general or brigade inspector shall note, on each regimental return, the day on which it was received. It shall be the duty of the major general, or his division inspector, to note, on each brigade return, the day on which it was received. It shall be the duty of the adjutant general to note the day on which he may receive the returns of the major generals of division or brigade returns; and, in case of the failure of any brigadier general to forward his return to the adjutant general within the time prescribed by law, he shall immediately report the same to the major general, to whose division such brigadier general belongs. If the commandants of regiments fail to make their returns within the time prescribed by law, it shall be the duty of the brigadier general, to whose brigade such commandant of regiment may belong, to order a brigade court martial, to assess the fines for such failure. And it shall be the duty of each major general, on the failure of any commandant of a brigade within his division, to make his annual return to such major general, and to the adjutant general, within the time prescribed by law, to order a division court martial for the trial of, and to assess the fine on such brigadier general for such failure.

§ 9. There shall be, in the month of October in each and every year, a regimental muster, at such place as the commandant thereof may direct, where every field, platoon, and regimental staff officer, non-commissioned officer, musician, and private belonging to said regiment, shall attend, armed and equipped according to law.

§ 10. There shall be a battalion muster in every battalion, at such place as the commandant thereof shall direct, in the month of May, in each and every year, where every officer, non-commissioned officer, musician, and private belonging thereto, as well as the commandant of the regi-

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Duplicate abstracts of division returns.

Day of receipt of returns to be noted.

Courts martial to be ordered to assess fines for failures.

Regimental muster.

Battalion muster.

1852.

ment, and regiment staff, shall attend, armed and equipped according to law.

Company
muster.

§ 11. There shall be one company muster in the month of April, in each and every year, to be appointed at the discretion of the commandants thereof, as to time and place; the place of mustering shall be a rallying point for said company in case of insurrection or invasion; where every commissioned, non-commissioned officer, musician, and private attached thereto, shall attend, armed and equipped according to law.

Brigade train-
ing.

§ 12. The commanding officers of brigades shall have power to order the commissioned officers of any two or more of the regiments of his brigade which lay most contiguous, to be trained together, at some place within the bounds of his command, to continue not less than two nor more than four days, and to encamp on the ground, at his discretion; which training, if ordered, shall be in the month of September; and the officer ordering the same shall superintend the training thereof in person, and shall be governed by the rules and articles of war which govern the army of the United States; of which training he shall notify the commandants of regiments in his orders for the annual musters.

Drill muster.

If there be no brigade training in any one year, commandants of regiments shall appoint a regimental drill muster, in the month of April or May, before the battalion musters, to continue not less than two nor more than four days, at his discretion, at which every commissioned and regimental staff officer, sergeant, and musician shall attend, and to encamp on the ground, at the discretion of said commandant.

Mode of train-
ing, &c., at sev-
eral musters.

§ 13. At the several musters herein directed to be held, the troops shall be trained by the commandants thereof, at least three hours on each day, agreeably to the discipline of "Scott's Exercise," or such other as may be adopted by congress for disciplining the army and militia of the United States. The rolls shall be called at each muster herein provided for, and the delinquents noted, as to absence, arms, accoutrements, or refusal or failure to perform the duties required, when present. It shall be the special duty of the commandants of companies to examine the condition of the public arms, at every muster, and particularly at the time of making their annual returns.

Regimental
training in lieu
of drill, battal-
ion, and regi-
mental musters.

§ 14. When no brigade training is ordered, in any year, commandants of regiments may dispense with the drill, battalion, and regimental musters; and in lieu thereof, may order a regimental training, in the month of September, within the bounds of his regiment, to continue not less than two nor more than three days, at his discretion, at which every officer, non-commissioned officer, musician,

and private, belonging to the regiment, shall attend, armed and equipped according to law.

§ 15. If any officer, non-commissioned officer, musician, or private, shall behave disobediently or mutinously, when on duty, at any parade or training, or before any court or board, directed to be held by this chapter, or shall attempt, by fantastical dress, or in any other manner, to ridicule or produce confusion in the same, the commanding officer present, or the court or board, shall have power to confine him under guard, during the parade or sitting of the court; and, moreover, if he be a commissioned officer, he shall be cashiered and fined, by any court or board, in any sum not exceeding fifty dollars; and if a non-commissioned officer, musician, or private, may be confined, in like manner, and be subject to a fine, in any sum not exceeding twenty-five dollars. And if any private citizen, or by-stander, shall molest or insult any officer or soldier, while on duty, or shall be guilty of disorderly conduct, as above described, the commanding officer, or the court or board, shall have power to confine him under guard, during the parade or sitting of the court or board, and he shall also be subject to a fine, in any sum not exceeding twenty dollars, to be collected as other fines.

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Disobedient,
mutinous, or
disorderly con-
duct,

§ 16. All arms, ammunition, and equipments of every militia man shall be exempt from executions and distresses at all times; and their persons from arrest, except for treason, felony, or breach of the peace, while going to, continuing at, or returning from musters, or any military court; and when detailed for the service of this state, or of the United States, and after receiving marching orders, no arrest or process in civil cases shall be served on them, and they shall be exempt therefrom during their continuance in service.

Exemption
from execution,
arrest, &c.

§ 17. Brigade inspectors, adjutants of regiments, and commandants of companies shall severally keep a book in which all orders shall be recorded, whether directed to or emanating from them or their commanding officers.

Orders to be
recorded.

ARTICLE VIII.

§ 1. That, hereafter, when any person accepts a military commission, he shall not be permitted to resign the same, except in the month of January, in each year; and all resignations shall be made in the following manner, to-wit: All company and regimental staff officers shall tender their resignations to the commandants of regiments; regimental field and brigade staff officers, to the commandants of brigades; brigadier generals and division staff officers, to the commandants of divisions; and major generals, adjutant general, and quartermaster general, to the governor and commander-in-chief.

Time and man-
ner of resigna-
tion.

§ 2. It shall be the duty of every officer, previous to his

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Officer resign-
ing, &c., to de-
liver public
arms, &c., to
next in com-
mand.

Fine for fail-
ure.

Officers re-
quired to take
oath.

Duplicate of
oath to be filed.

Fine for fail-
ing to take oath.

Penalty for ex-
ercising duties
of office before
taking oath.

Twelve months
absence consid-
ered a removal.

resigning or removing out of the bounds of his command, to deliver the public arms, if any, the laws, rolls, and returns that may be in his possession, to the next officer in command, and take his receipt therefor. Any person failing so to do, shall be subject to a fine of any sum not exceeding fifty dollars, to be assessed by any court martial or court of assessment, notwithstanding such officer may have resigned or removed out of the bounds of his command; which fine, if on a regimental (other than field) officer, shall be applied to the use of said regiment.

§ 3. It shall be the duty of every officer hereafter elected or appointed in the militia of this state, within twenty days after receiving his commission, and before he acts under the same, to appear before some justice of the peace in the county in which he resides, or before the county court, who shall administer to such officer the following oath or affirmation: "You do solemnly swear (or affirm) that you will support the constitution of the United States and of this state; that you will be faithful and true to the commonwealth of Kentucky, so long as you continue a citizen thereof; and that you will faithfully execute the office of _____, according to law and the best of your understanding;" and also the oath prescribed by the law more effectually to suppress the practice of dueling. A certificate thereof shall be indorsed on the commission at the time of taking the oath; and the officer thus qualified shall be obeyed and respected accordingly.

§ 4. Every regimental officer taking the aforesaid oath, shall, within twenty days thereafter, file with the adjutant of his regiment a duplicate of the aforesaid oath, which shall be preserved with the papers of his office; and any officer failing to take such oath within the time prescribed by law, and filing copy of same with the adjutant, shall be subject to a fine of not less than three nor more than five dollars; and the adjutant shall report all such delinquent officers to the regimental court of assessment.

§ 5. If any officer, before he shall have taken the oath prescribed by this act, shall exercise any of the duties of such office, he may, if a field officer, be fined in any sum not exceeding fifty dollars, at the discretion of a brigade court martial; if below the rank of a field officer, he may be fined in any sum not more than twenty-five dollars, to be assessed by a regimental court, and to be applied to the use of said regiment.

§ 6. If any commissioned officer shall absent himself from the duties of his command for the space of twelve months, unless he be employed in public business, it shall be deemed equivalent to a removal, and his office vacated, and the governor, major general, brigadier general, or commandant of a regiment, as the case may be, shall immediately proceed to cause such vacancy to be filled. And

if any commissioned officer shall labor under any bodily infirmities, mental disability, or habitual drunkenness, the governor, major general, brigadier general, or commandants of regiments, as the case may be, shall order a court of inquiry; and if, on investigation, they shall report to the officer ordering the court, that the officer charged does labor under such bodily infirmity, mental disability, or habitual drunkenness, to such extent as to disqualify such officer for the faithful discharge of his duties as such, and the officer ordering the court shall approve the report of said court, the office shall thereafter be considered vacated; and the governor, major general, brigadier general, or commandants of regiments, as the case may be, shall take proper measures for filling such vacancy.

In all cases where the opinion of said court shall go to vacate the office of any officer, above the rank of captain, the governor and commander-in-chief shall first approve the same.

§ 7. The following shall be the uniform and equipments of the several officers of the militia of this state, in which they shall appear at all times, when required to attend any parade or court directed by this chapter: Every general officer, blue coat and pantaloons, made in the fashion of the United States uniform, red sash, yellow buttons, gilt or gold epaulets, boots, spurs, a round black hat, black cockade and stock, white plume, gilt small sword or hanger, and pistols and holsters. Each division and brigade staff officer, a plain blue coat and pantaloons, and, in all other respects, to conform to that prescribed for general officers, with the exception of the number of epaulets, as hereafter provided for. Each regimental field officer, blue coat and pantaloons, made in the fashion of the United States uniform, with white buttons, silver epaulets, round black hat, black stock and cockade, white plume, tipped with red, red sash, boots, spurs, pistols, and holsters, and white small sword or hanger. Every company officer, a plain blue coat and pantaloons, a round black hat, black stock and cockade, red plume, silver epaulet, small sword or hanger. The regimental staff officers shall wear the same uniform prescribed for company officers, except that their plumes shall be white, tipped with red, and shall have pistols and holsters.

1. Chaplains, surgeons, and surgeons' mates, shall not be compelled to appear in any uniform, but to wear a black plume.

2. All officers may be permitted to wear uniforms in the style of the United States' uniform.

3. The division inspectors, quartermasters, and brigade major, shall wear two epaulets; brigade quartermasters and aid-de-camp, one epaulet, to be worn on the right shoulder; captains, one epaulet, on the right shoulder, and

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How office
vacated when
officer labors
under bodily in-
firmity, mental
disability, or
habitual drunk-
enness.

Uniform and
equipment of of-
ficers.

1852.	all subaltern and regimental staff officers, one epaulet on the left shoulder.
Pay of adjutant, regimental judge advocate, and provost marshal.	§ 8. Adjutants of regiments shall be allowed one dollar and fifty cents per day for attending battalion, drill, and regimental musters; regimental judge advocates shall receive one dollar and fifty cents per day, when attending any of the courts authorized under this chapter; and provost marshals, one dollar per day, when attending as aforesaid; all of which shall be paid out of the funds of the regiments to which they belong.
Rate of fines.	§ 9. That the fines to be inflicted, under the provisions of this chapter, shall, without a reasonable excuse, be assessed as follows, viz: On any major general, for a failure to perform the duty or duties enjoined on him by this chapter, any sum not less than twenty nor more than fifty dollars, and for failing to make his annual return, within the time prescribed by law, fifty dollars. On every brigadier general, for failing to make his annual return, within the time prescribed by law, forty dollars, and for failure to perform any other duty or duties required of him by this chapter, any sum not less than fifteen nor more than forty dollars. On the adjutant general, for failing to perform any duty or duties required of him by this chapter, any sum not exceeding fifty dollars, and for failing to make his annual return, one hundred dollars. On the quartermaster general, for failing to perform any duty or duties enjoined on him by this chapter, any sum not exceeding fifty dollars. On the commandants of each regiment, for failing to make his annual return within the time prescribed by law, twenty-five dollars; for failing to settle with the paymaster of his regiment, one hundred dollars, and for failing to perform any other duty or duties required by this chapter, in any sum not less than five nor more than twenty dollars, for each offense. On every lieutenant colonel or major, failing, when notified, to attend to settle with the paymaster, seventy-five dollars, and for failing to perform any other duty or duties required by this chapter, any sum not less than five nor more than fifteen dollars, for each offense. On every captain, for failing to make his annual return within the time prescribed by law, ten dollars, and for failing to perform any other duty or duties required of him by this chapter, any sum not less than five nor more than ten dollars, for each offense. On each lieutenant, ensign, or cornet, for failing to perform any of the duty or duties required of them by this chapter, any sum not less than three nor more than five dollars. On each sergeant major, quartermaster sergeant, drum and fife major, sergeant and corporal, for failing to perform any of the duty or duties enjoined on them by this chapter, any sum not less than one dollar and fifty cents, nor more than four dollars, for each offense. On every private, for disobedience of orders,
Major general.	
Brigadier general.	
Adjutant general.	
Quartermaster general.	
Commandant of regiment.	
Lieutenant colonel or major.	
Captain.	
Lieutenant, ensign, or cornet.	
Sergeant, major, &c.	
Private.	

three dollars, for failing to attend musters, not less than one nor more than three dollars. On every aid-de-camp, for failing to obey the orders of his major or brigadier general, or for failing to comply with any duty or duties required of them by this chapter, any sum not less than five nor more than fifteen dollars. On every division inspector or quartermaster, or brigade inspector or quartermaster, for failing to obey the orders of their generals, or for failing to perform any duty or duties assigned or required of them by this chapter, any sum not exceeding fifteen dollars for each offense. On every adjutant, for disobedience of orders, or for failing to perform any of the duty or duties enjoined on them by this chapter, any sum not less than three nor more than ten dollars. On regimental paymaster, for failing to enter into bond for a faithful discharge of his duties, within three months from the receipt of his commission, any sum not exceeding fifty dollars; for failing to settle with the sheriff, or field officers of his regiment, annually, as required by this chapter, any sum not less than fifty nor more than one hundred dollars, and for any other failure to perform duty, five dollars for each offense. On any surgeon or surgeon's mate, for failing to attend a court or board, for the examination of invalids, five dollars, and for failing to perform any other duty or duties required of them, five dollars for each offense. On every quartermaster, for failing to perform any duty or duties required of them by law, or disobedience to his commanding officer, five dollars for each offense. On every judge advocate, for a failure to comply with any duty or duties required of him by law, not otherwise provided for herein, five dollars for each offense. And the commanding officers of divisions, brigades, and regiments, are hereby authorized to order courts martial, or courts of inquiry, at their discretion, for the trial of, and to assess the fines or any delinquent; which fines shall be collected and accounted for agreeably to law.

1852.
Aid-de camp.

Adjutant.

Paymaster.

Surgeon, &c.

Quartermaster.

Judge advocate.

Courts martial to be ordered to assess fines.

ARTICLE IX.

§ 1. There shall be courts martial or courts of inquiry ordered, whenever necessary, to hear complaints of inability, and for the trial of all officers, non-commissioned officers, musicians, and privates who fail or refuse to march when ordered into the service of this state or of the United States. Commandants of companies, when mustered into the service of this state or of the United States, finding any part of his command fail in complying with the orders they shall have received, shall report the same to the commandant of the regiment from which such delinquent detail was made; whereupon a court shall be ordered for the trial of such person, notice being first given in writing and left at the house of such delinquent officer or soldier, or his place of residence at the time he was detailed for service;

Officers or privates failing or refusing to march when ordered into service, to be tried by courts martial.

Notice of trial.

1852.

Sentence.

May be arrested and placed in jail.

Desertion.

Person arresting deserter to have credit for the time he has to serve.

Non-commissioned officers.

Major general, &c., detailed may select his staff.

Officers of companies dissolved by reduction of numbers.

and, upon proof being made to the court of such notice being given, they shall proceed to the trial in the same manner as if the accused appeared and plead not guilty. And if a commissioned officer, the court shall cashier him, and fine him to the amount of three months' pay of such officer, when in service, unless a reasonable excuse be given for such failure. And any non-commissioned officer, musician, or private, failing or refusing to march, when ordered into service of this state or of the United States, shall, without a reasonable excuse, be fined in like manner, in any sum not less than sixty nor exceeding one hundred dollars, and be imprisoned two months; and the commandant of the regiment to which such delinquent belongs may order any officer of the regiment, with a sufficient guard, to arrest the offender and commit him to any jail in this state; and the jailer shall receive and confine him during the time of his sentence by the court, whose jail fees shall be paid as in other cases. And if any person shall desert from the service, it shall be the duty of any and every officer knowing such person to be a deserter, to apprehend and deliver him over to any subsequent officer detailed for service, or to any jailer in this state; and if to an officer, he shall be taken and detained in service until he shall have completed the time for which he was detailed, and shall have one-half his pay stopped; and any private citizen apprehending such deserter, and delivering him to any officer as aforesaid, and take his receipt therefor, such person shall be entitled to a credit for the length of time said deserter was detailed to serve; which receipt shall be assignable if granted to any person whatever.

§ 2. That the non-commissioned officers of any company of the militia of this state, shall not exceed more in number than one-eighth part of the rank and file of each company, and, as near as may be, in that proportion; but shall, at no time, exceed eight in number.

§ 3. When any major general, brigadier general, commandant of a regiment or battalion, shall be detailed from the militia, for the service of this state or of the United States, such officer shall select the staff to which he is entitled from the line of staff officers within the bounds where such detail was made; and any staff officer, so detailed for service, and failing or refusing to march, shall be cashiered and fined at the discretion of a court martial.

§ 4. All officers holding commissions in any company, either light or company of the line, that may be reduced below the number required by this chapter, their commissions shall, on the dissolution of such company, cease and be of no effect from and after such dissolution, and they shall be subject to militia duty as privates.

§ 5. Where any officer non-commissioned officer, musician, or private, belonging to any society holding a community

of property, shall be fined by virtue of this chapter, and refuse, or is not able to pay such fine, it shall be the duty of the sheriff, or other proper officer, to call on the agent or superintendent of the common stock or firm of such society or compact for the amount of such fines; and in case the agent or superintendent be absent, or refuse to pay the same, it shall be the duty of the sheriff or officer to execute and sell as much property belonging to said community, or compact, as shall be sufficient to pay the fine or fines, and the costs.

§ 6. While the militia are in the service of this state, or of the United States, the several oaths which officers are required by law to take, may be administered by any commissioned officer belonging to the detachment.

§ 7. Brigadier generals shall approve of the uniform of any independent or volunteer company, raised within his brigade; and when the uniform is thus approved, each non-commissioned officer, musician, or private who appears on parade without uniform, shall be fined fifty cents for such failure.

§ 8. All fines assessed on members of any independent or volunteer company, whether artillery, cavalry, light infantry, or riflemen, shall be applied exclusively to the use of such corps; and it shall be the duty of the regimental paymasters to keep the accounts of each corps separately and distinctly from the other funds of their regiment; and the funds thus arising shall be applied to the use of such companies, upon orders drawn by the commanding officer of the regiment, after deducting a fair proportion of the expenses incurred in the collection and paying over the same.

§ 9. Commanding officers of regiments and battalions shall return a list of delinquent officers to the court of assessment, for all trainings or courts directed by this chapter, and, on failure thereof, the adjutant shall report such officer to the brigadier general.

§ 10. That no adjutant shall take the command at any battalion or regimental parade or drill, after the troops are formed, and the officers stationed; and if any field officer, at any parade, whose duty it is to command, shall fail to do so, the officers next in rank shall take the command, and exercise the troops; and, after discharging the duties of the day, he shall report the delinquent officer, for failing to do his duty according to law.

§ 11. That at each of the musters, where the law requires the brigade inspectors to attend, he shall note and return to his brigadier general all the regimental field and staff officers who failed to attend such muster, whose duty it shall be to order a brigade court martial, to assess the fines against them. And in case the brigade inspector shall not attend, it shall be the duty of the commanding of-

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Fine of officer, &c., belonging to society holding community of property, how collected.

When in service, any commissioned officer may administer oaths required.

Uniform of volunteers to be approved by brigadier general.

Fine for appearing without-

Fines of members of volunteer companies to be for use of corps.

Delinquents to be returned to court of assessment.

Adjutant not to command at parade or drill.

Non-attendance of field officers, &c., at musters, to be reported, &c.

1852.

ficer present to note and make such return. And it shall be the particular duty of commandants of regiments to return, to the major general, the failure of their brigadier general to review their regiments annually, and the major general shall order a division court martial to assess the fines accordingly. Commandants of regiments are required, on the failure of their major generals, accompanied by his staff, to review the regiment once in two years, to report the same to the adjutant general, who shall order a court martial to assess the fines for such failure.

ARTICLE X.

Carrier of orders may be selected.

Fine for refusal to serve.

Orders by mail.

Company 25 miles distant, need not attend muster.

Collector of fines may be appointed.

Volunteer companies entitled to right on parade.

Officers rank according to date of commission.

Lieutenant colonels and majors.

§ 1. Each major general, brigadier general, and commandants of regiments, shall have power to select, from within the bounds of their commands, some fit person to carry their orders, who shall be exempt from attending musters, except for the purposes of draft; which carrier shall not be compelled to serve for more than one year; and, on his refusal to serve, he shall be fined three dollars for each offense. Nor shall any officer transmit, by mail, to any other officer, any communication on which the officer receiving the same is subject to pay postage.

§ 2. No militia company, whose place of mustering exceeds twenty miles from the place designated for battalion or regimental parade, shall be compelled to attend the same, but the commandant of such company shall muster the same, on the same day, at the usual muster ground.

§ 3. That the majority of the field officers and captains, in any regiment, shall have power, and are hereby authorized, to appoint some fit person, in lieu of the sheriff, to collect the fines assessed in the regiment; which collector shall, at the next county court, enter into bond, with approved security, in at least double the sum to be collected, and shall have the same power to collect, and be responsible for the same, in the same manner as is provided for in the case of sheriffs, and shall have the same compensation for their services.

§ 4. That all battalion or regimental parades, independent or volunteer companies shall be entitled to the right of the battalion or regiment; but at all courts or boards, officers shall take rank agreeably to the date of their commissions, and if any two or more of the same grade hold commissions of equal date, their rank shall be decided by lot.

§ 5. Lieutenant colonels shall command the first battalion in the regiment to which they belong, and the majors shall command the second.

§ 6. At every regimental board of officers, convened for the purpose of making examinations to fill vacancies, it shall be made to appear upon the record that a majority of the field officers and captains of the regiment were

present, after which they shall proceed to announce the persons recommended for each particular office; and the record thus made out, and signed by the presiding officer of the court, he shall cause to be handed to the brigadier general commanding the brigade to which such regiment belongs, or, in case of his absence, to the major general commanding the division, who shall frank and transmit the same to the adjutant general, by mail, to be laid before the governor and commander-in-chief.

§ 7. That the major generals and brigadier generals shall, in future, transmit, by mail, to the adjutant general, all estimates for camp equipage, annual returns, and all communications of every description having relation to the militia; which returns, letters, or packages, they shall frank, by indorsing their official name thereon. And all officers of every grade, having communications to make to the executive, on the subject of the militia, shall have the same transmitted to the adjutant general, in the manner herein described.

§ 8. All officers receiving, from the adjutant general, orders, notices, commissions, blank abstracts of annual returns, or any other communications, designed for their divisions, brigades, or regiments, shall, without delay, transmit them to the officer or officers entitled to the same.

If they are intended for regimental officers, they shall be transmitted to the commandant thereof, who shall distribute them accordingly.

§ 9. All other laws now in force in this state, having relation to the militia, are hereby repealed.

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It must appear by record that a majority of regimental board were present, to fill vacancies.

Record must be transmitted to adjutant general, and laid before governor.

Estimates, returns, &c. &c. to be indorsed and transmitted to adjutant general.

Officers receiving orders, &c., to forward to persons for whom intended.

Other laws repealed.

CHAPTER LXVI. INSOLVENT DEBTORS.

§ 1. Any person desiring to be discharged that now is or hereafter may be taken or charged in execution in any civil case, may, by petition, apply to two justices of the peace, or the presiding judge of his county, or the police judge of the county town, who shall, by warrant, under his or their hands, require the keeper of the jail to bring the body of the petitioner before them or him, at the court house, on a specified day, and a list of the several executions with which he may stand charged.

Insolvent debtors to be brought before two justices or police judge.

1. Reasonable notice of the time and place of such application must be given to the opposite party, or his agent or attorney, if in the county.

Notice to other party.

2. The keeper of the jail shall obey the warrant.

3. The petitioner, when brought before the judge or justices, shall subscribe and deliver a schedule of his whole estate liable for his debts, and take an oath or affirmation in substance as follows:

Schedule and oath.

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I, A. B., do swear (or affirm) that the schedule now delivered contains, to the best of my knowledge and belief, a full, true, and perfect account and discovery of all the estate and effects unto me in any wise belonging, and of such debts as are owing to me, or in trust for me, which are liable for my debts; and that I have not, directly or indirectly, sold, assigned, or otherwise disposed of, in trust or otherwise, for my use or the benefit of another, or concealed any part of my effects whereby to secure the same, to receive or expect any profit or advantage from the same, to defraud any creditor to whom I am in any wise indebted.

Discharge.

4. Upon the delivery of such schedule, properly verified, the judge or justices (unless it be made to appear that the petitioner has acted fraudulently) may, by warrant, command the keeper of the jail to discharge the petitioner forthwith; and the warrant shall be a justification to the keeper of the jail for such discharge.

Schedule, &c.,
to be filed.

5. The schedule, so subscribed and verified, with the petition and warrant, shall be returned to and kept safely on file by the clerk of the county court of the county in which the prisoner was confined.

Property vested
in sheriff in
trust.

§ 2. The right of the petitioner to the effects described in the schedule, (saving his wife's dower in the lands, if any,) shall be vested in the sheriff of the county in which the prisoner was confined, in trust for the use of the creditors under whose executions he stood charged, and the sheriff shall perform the trust though his term of office expires.

Sheriff to sell,
&c.

1. The sheriff shall sell such effects, and pay over the proceeds to the execution creditors, retaining his commission.

To prosecute
actions.

2. He shall, for the use of the execution creditors, at their instance and costs, prosecute any necessary action to recover the effects of a person discharged under this chapter.

Fieri facias
after discharge.

§ 3. A *fieri facias* may be issued after the discharge of a prisoner, to have execution of the unsatisfied portion of the creditors' judgment. No revival of the judgment shall be necessary.

Effects exempt
from execution.

§ 4. An insolvent debtor shall not be held to surrender such of his effects as are exempted by law from execution.

Applies to one
imprisoned by
order of court of
chancery.

§ 5. The provisions of this chapter shall apply to a person imprisoned by order of a court of chancery to compel the payment of money under a decree or judgment of such court.

CHAPTER LXVII.

ADVERTISEMENTS.

§ 1. When the proprietor of any newspaper printed in this state, desires authority to insert therein such advertise-

ments as are required by law to be published in a newspaper, he may apply to the circuit court of the county in which his paper is published, and present to the court the title thereof, with the names of the printers and publishers; whereupon the court may, by order entered of record, authorize advertisements to be published in such paper.

§ 2. The affidavit of the editor, printer, publisher, or proprietor of a paper authorized to publish advertisements, stating that an advertisement has been published in his paper, and the length of time it has been so published, attached to a copy thereof, shall be *prima facie* evidence that the publication was made as stated in the affidavit.

1852.

Circuit court may authorize newspapers.

Affidavit of editor, &c., evidence.

CHAPTER LXVIII.

HOW NAMES MAY BE CHANGED.

§ 1. Any person of the age of twenty-one years, and not a married woman, may have his or her name changed by the county court in which he or she resides.

§ 2. The father, or if dead, the mother and guardian, or if no mother is living, the guardian alone of an infant, may in like manner have its name changed.

§ 3. The original name, age, and place of birth, and the name to which the change is made; and the names of an infant's father and mother, if known, and of the person on whose motion the change is made, must be entered on the order book of the court.

§ 4. The clerk of every court shall keep an alphabetical index for each order book, referring to the proper page in which each person's name is changed, giving the names from and to which it is changed.

Names of adults.

Of infants.

Change to be entered on order book.

Index to be kept.

CHAPTER LXIX.

MASTERS, AUDITORS, RECEIVERS, AND COMMISSIONERS IN CHANCERY.

§ 1. The circuit court of each county shall, once in every four years, and oftener if a vacancy occurs, appoint a master commissioner for that court.

1. Before the commissioner proceeds to act, he shall take an oath faithfully to discharge the duties of his office.

2. He shall settle the accounts of insolvent estates adjudicated in the circuit court.

3. Such commissioner may be removed by the court.

§ 2. The parties, or their attorneys may, in any case, select an auditor, a master, or other commissioner to settle the accounts of insolvent estates, to divide lands, negroes,

Master commissioner.

His oath.

To settle insolvent estates.

Removable.

Parties may select auditor, &c.

1852.	or personal estate, or to allot dower, or for any other appropriate purpose.
Receiver.	§ 3. The parties, or their attorneys, may select a receiver or a commissioner to collect money. If they fail to make a selection, the court shall appoint one.
Covenant and surety.	1. No commissioner to collect money, nor receiver, shall act as such until he has executed a covenant, with good surety, to be approved by the court, binding him to discharge faithfully the duties of his station, and promptly to comply with all orders and decrees rendered in the cause.
	2. The covenant must be payable to the commonwealth, and may be put in suit from time to time by any person aggrieved.
Compensation.	§ 4. No master or other commissioner, or auditor, shall receive more than three dollars per day, except by the consent of parties, for each day he shall be necessarily engaged in the business of his station, to be ascertained by his oath and other evidence.
	§ 5. Commissioners to execute deeds under the decrees of courts shall be allowed only one dollar and fifty cents for each deed; except when the parties consent to a greater allowance.
	§ 6. The fees of auditors, commissioners, and receivers shall, in all cases, be taxed as a part of the costs.

CHAPTER LXX.

COMMISSIONERS OF FOREIGN DEEDS.

Governor may appoint.	§ 1. The governor of the commonwealth may appoint and commission one or more commissioners of deeds in each state, district, or territory of the United States.
Term of office.	1. The commissioners so appointed shall remain in office for the term of four years, and the commissions of those now in office shall expire on the 1st day of January, 1854.
Vacancies.	2. The governor may, from time to time, fill vacancies in the office.
Affidavit.	3. Each commissioner, before he enters on the duties of his office, shall make and subscribe an affidavit, before an officer authorized to administer an oath, well and truly to execute and perform all the duties of his station.
	4. Which affidavit must be transmitted to and filed in the office of the secretary of state for this commonwealth.
Commissioners' authority.	§ 2. Any commissioner appointed and qualified as above directed, shall have the authority to take the acknowledgment or proof of any instrument of writing, (except wills,) which, by the laws of this state, is required to be recorded.
	1. He shall also have the power to examine and take

the acknowledgment of married women to any such instrument.

2. The examination, acknowledgment, or proof of any such instrument taken by a commissioner and certified under his official seal, in the manner required by the laws of this state, shall authorize the same to be admitted to record in the proper office.

3. A commissioner of deeds may administer any oath or take any affirmation necessary to the discharge of his official duties.

§ 3. Commissioners appointed under this chapter may take and certify depositions to be read on the trial of any suit which may be pending in any of the courts of this commonwealth.

§ 4. Commissioners heretofore appointed may, during their continuance in office, act under this chapter.

1852.

Instruments admitted to record.

Oaths.

Depositions.

Commissioners heretofore appointed.

CHAPTER LXXI.

TREASURY WARRANT CLAIMS.

§ 1. Each county of this commonwealth is hereby vested with the right and power to dispose of all the vacant and unappropriated lands lying therein; and

1. To hold the proceeds in trust for county purposes, except where the same has been, by special law, appropriated to some other object.

2. The lands shall be disposed of by the county court of the county in the manner directed in this chapter.

§ 2. An actual settler on any vacant and unappropriated lands shall have a pre-emption right to any number of acres not exceeding one hundred, to be laid off in a square, as near as possible, so as to include the improvement in the centre.

1. Any person wishing to locate land in the possession of an actual settler thereon, shall give the settler three months notice of his intention to take up and appropriate the same, describing in the notice the land intended to be appropriated.

2. If the settler shall not, within three months from the giving of such notice, cause the land to be entered and surveyed preparatory to obtaining a patent for the same, then the person giving the notice may enter and survey the land, and proceed to obtain a patent therefor.

§ 3. Any person who wishes to appropriate any vacant and unappropriated lands, may, on application to the county court of the county in which the same lies, and paying at such price as the court may allow, not less than five dollars per hundred acres therefor, obtain an order of court authorizing him to enter and survey any number of acres

Counties authorized to dispose of vacant lands.

Settlers pre-emption right.

Entitled to 3 months notice.

County court may grant order to enter vacant land.

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Entry to be
made in survey-
or's book.

Surveyor to
make survey.

Within two
months.

Plat and cer-
tificate.

Patent to issue.

Survey to be
marked "satis-
fied."

Legal title.

Vacant land
only subject to
appropriation.

Plat, &c., as-
signable.

Surveys return-
ed after time.

Land escheated,
&c., not subject
to appropriation

Further time
allowed to re-
turn land office
warrants.

of such land in the county, not less than twenty-five nor more than two hundred.

1. The party obtaining such order may, by an entry in the surveyor's book of the county describing the same, appropriate the quantity of land it call for in one or more parcels, as he may think proper.

2. The surveyor shall survey the entries in the succession in which the same are made, bounding the same by plainly marked trees, stones, or stakes, noting where it binds on a water-course or the marked line of another survey, giving names. It shall be made in the presence of two disinterested housekeepers as chainmen, whose names must be placed at the bottom of the plat and certificate.

3. Such survey must be made within two months from and after the date of the entry.

4. A plat and certificate of the survey must be made out by the surveyor and recorded in his books, and the original thereof, and a copy of the order of court under which it is made, must be deposited in the register's office within four months after the survey is made.

5. A patent may issue on the survey within three months after a plat and certificate thereof, and a copy of the order, are filed in the register's office.

6. When a survey has been carried into grant, the register shall write across the face of the order on which the survey was made, "satisfied," and sign his name thereto.

7. The legal title of the land shall bear date from the time of making the survey.

8. None but vacant land shall be subject to appropriation under this chapter. Every entry, survey, or patent made or issued under this chapter shall be void so far as it embraces lands previously entered, surveyed, or patented.

9. A plat and certificate of survey shall be assignable, and the assignment thereof shall authorize a patent to issue thereon to the assignee.

10. The register may receive plats and certificates of survey after the expiration of the time herein allowed for returning the same; but in such case the legal title shall take effect only from the date of the patent.

11. No land shall be subject to appropriation under this chapter that has reverted to the commonwealth by escheat, or has been forfeited for an omission to list the same for taxation, or for failing to pay the taxes thereon, or which has been once patented, and the title of the same has in any way become again vested in the commonwealth.

12. The further time of three years, from and after the first of February, 1852, is hereby given to survey and return plats of certificates of Kentucky land office warrants to the register's office.

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CHAPTER LXXII.

1852.

SALE OF THE REAL ESTATE AND SLAVES OF INFANTS, &c.

ARTICLE I.

Lands worth less than one hundred dollars in the share.

§ 1. Whensoever any lands shall descend to two or more heirs, any one of whom is an infant, or of unsound mind, a married woman, or resides out of the state, and the share of each heir is not of greater value than one hundred dollars, the court of equity for the county in which the land, or the greater part thereof, lies, may, on the petition of one or more of the heirs, decree a sale of the same.

ARTICLE II.

Slaves held jointly.

§ 1. When slaves are held in joint tenancy, or tenancy in common, or otherwise, by several parties, and cannot be divided in kind, a court of equity may, on the petition of one or more of the parties interested, decree a sale of such slaves, and a distribution of the proceeds. But no such decree shall be rendered in contravention of the deed or will under which the slaves are held.

§ 2. All persons interested must be made parties to the proceedings under this article.

ARTICLE III.

Lands in general.

§ 1. The real estate of an infant, idiot, or lunatic, held by descent, devise, or by contract, whether in possession, reversion, or remainder, may, on a petition to the circuit court of the county in which the same, or the greater part thereof, lies, be decreed to be sold.

Land of infant, idiot, or lunatic; circuit court may decree sale.

1. But no sale of land shall be decreed in contravention of the will, deed, or contract under which it is held.

Not to contravene will, &c.

2. The petition must be filed by the statutory guardian or committee, and alledge his belief that the sale will redound to the benefit of the infant, idiot, or lunatic, and must be verified by his affidavit.

Petition.

3. The title papers under which the land is held must, in all cases, be filed with the petition.

Title papers.

4. The wife and children, if any, if none, his next of kin, of a lunatic or idiot, must be made parties to the petition, and no sale of the land or slaves of an idiot or lunatic shall be made except to the extent that it plainly appears by written evidence that such sale is necessary to pay his debts, or for his maintenance.

Who to be made parties.

5. All the persons interested in the land, and the statutory guardians of the infants, if any, who are not petitioners, must be made parties.

6. If any objection is made to the sale by any of the defendants to the petition, the shares of such defendants shall

Share of defendant objecting not to be sold.

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not be decreed to be sold. In such case, the land may be divided, and the part of those desiring a sale may be decreed to be sold.

§ 2. Before a court shall have jurisdiction to decree a sale of infants' lands—

Commissioners to report value, &c., of estate.

1. Three commissioners must be appointed to report, and must report under oath to the court, the net value of the infant's real and personal estate, and the annual profits thereof, and whether the interest of the infant or idiot requires the sale to be made.

Proof.

2. Proof may be taken or required by the court, showing the propriety and expediency of such sale, or the reverse.

Guardian or committee to give covenant with surety.

3. The guardian of each infant, and the committee of each lunatic or idiot, whether a petitioner or defendant, must enter into a covenant to the infant or lunatic or idiot, with good surety, to be approved by the court, stipulating a faithful discharge of all his duties under this act, and under any order or decree of the court in pursuance thereof.

If the guardian or committee of an infant, idiot, or lunatic fails to give such covenant, the interest of such infant, idiot, or lunatic shall not be sold; and any decree, sale, or conveyance thereof shall be void.

Land and slaves held in trust may be sold.

§ 3. Sales of lands and slaves held in trust may be made under the provisions of this chapter, variant from the provisions of the deed, and the proceeds reinvested for the benefit of those for whom the trust is held, if the sale and reinvestment are made by the consent of the donor of the trust. All persons interested, and the donor, must be made parties to the proceedings.

ARTICLE IV.

Sale of vicious slaves.

Upon petition of person holding life interest.

§ 1. Any person holding a life interest in a slave may, by petition to the circuit court of the county in which the slave is so held, verified by his affidavit, state that such slave intends to run away to a free state, or is of vicious character, or is ungovernable, and making the persons interested in remainder parties, procure a decree for the sale of such slave, and a proper division of the proceeds.

Required.

1. Before a decree is rendered in such case, proof of the allegations of the petition must be made, if controverted by the remainder men.

2. The court must, in its decree, secure that part of the proceeds going to infants or other persons laboring under a disability.

Any interest may be sold.

§ 2. Any interest held in a slave may be sold as provided in the last preceding section, on a petition to the circuit court, filed by the personal representative of a decedent, setting forth the facts as stated in that section.

1. The petition must be verified by the oath of the petitioner.

2. It must be proved to the satisfaction of the court that a sale of such slave would redound to the interest of the estate.

3. All persons interested must be made parties.

ARTICLE V.

Sale of married women's lands and slaves.

§ 1. The lands or slaves of a married woman, or any interest therein, may be decreed to be sold on the petition of her husband or next friend, she being made a defendant to the same; and if the husband be not the next friend, he must also be made a party.

1. The petition must set forth and exhibit her evidence of title, and her interest in the lands or slaves, and state that a sale thereof would redound to her interest, and be verified by the affidavit of the petitioner.

2. No such decree shall be rendered until she files an answer to the petition, consenting to the sale, and shall acknowledge the same on privy examination before the court, or before a commissioner appointed to take the same.

3. All parties interested in the estate, and the trustees of the land or slaves, if any, and the donor of the same, or his personal representative, must be made parties to the petition.

4. When the land of a married woman is held jointly with others, a joint sale may be decreed, if assented to by the others; if not, a partition may be decreed, and the married woman's part may be decreed to be sold.

5. When an interest in slaves is held by a married woman jointly with others, such slaves, if not susceptible of a division in kind, may be decreed to be sold, and the proceeds to be equitably divided.

6. No decree shall be entered under this article until the petitioner shall enter into a covenant, with good surety, approved by the court, to the commonwealth, for the benefit of such married woman and her heirs, stipulating a faithful discharge of all his duties under this chapter, and under any order or decree of the court in pursuance thereof.

7. If no such covenant is given, the decree, sale, and conveyance made under it shall be void.

8. Suit may be instituted on the covenant, from time to time, by any person interested.

9. The proceedings under this article shall, in other respects, be the same as are required to procure the sale of infants' lands; and no sale of land or slaves shall be made under this article, if in the opinion of the court such sale would be in contravention of the deed or will under which

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Requisites.

On petition of husband or next friend.

Petition.

Wife's consent requisite.

Parties.

When land held jointly.

When slaves held jointly.

Petition to give covenant.

Or else void.

Suits thereon.

Proceedings same as sale of infant's lands.

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the same are held, and unless the court believes that such sale will be beneficial to the married woman.

ARTICLE VI.

Miscellaneous provisions.

Commissioner to be appointed.

§ 1. The court rendering a decree under any of the provisions of this chapter, shall appoint a suitable person as commissioner to carry the decree into effect, and to collect the proceeds of the sale.

No report.

1. He must report all his acts to the court for its approval.

Conveyance of title.

2. After the sale money for land is paid, the court may, by a commissioner, cause the title of the land to be conveyed to the purchaser, without warranty. There shall, in all cases, be a lien on the land for the sale money and interest.

3. The deed must be acknowledged before and approved by the court.

Proceeds of sale of infant's lands, &c., to whom paid over

§ 2. The proceeds of the sales of an infant's lands and slaves shall be paid over to his guardian; of a lunatic or idiot, to his committee; and of a married woman, to the petitioner.

May be re-invested.

§ 3. The proceeds of the sales of infants' lands and slaves may be re-invested in lands or slaves in or out of this state, as the court may order, and shall, until so invested, be subject to the order and control of the court.

Or kept at interest.

1. If not re-invested, the proceeds shall be kept at interest until the maturity or death of the ward, and then paid over, with the accruing interest, to the person legally entitled thereto.

Of land, &c., of idiots, &c.

2. The proceeds of the land and slaves of an idiot or lunatic shall be paid over to his committee, and kept at interest, under the control of the court; and shall, with the interest, be paid to the person entitled thereto, when so ordered by the court, or at the death of the idiot or lunatic.

Qualification of sections, &c.

3. The two preceding subsections, and the original section, are subject to this qualification: that the court may order such part of the proceeds of sales to be laid out for the maintenance or education of an infant, as is authorized by the chapter on Guardian and Ward; and such part of the proceeds of the sales of an idiot's or lunatic's lands or slaves to be laid out for his maintenance, as is authorized by the chapter on Idiots and Lunatics.

Proceeds of sale of married women's lands, &c.

§ 4. The court ordering a sale of a married woman's lands or slaves, shall cause the proceeds of the same to be re-invested in lands or slaves in or out of this state, subject to the same uses, limitations, and trusts as the lands or slaves sold was held.

Descent or distribution not to be changed.

§ 5. The descent or distribution of the proceeds, or of the property in which the proceeds of lands or slaves sold under any decree of court is invested, shall not be changed

from what would have been the course of descent or distribution if no sale had been decreed or made.

§ 6. All sales under the provisions of this chapter shall be made at the court house door of the county where the estate or property sold shall be, unless otherwise ordered by the court. The sale shall be at public auction, and on a reasonable credit, proper notice thereof being given.

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Sales, where
and how made.

CHAPTER LXXIII.

FEEs.

ARTICLE I.

§ 1. The fees of officers and others performing public duties shall be as follows:

Auditor of Public Accounts and Attorneys.

§ 2. For a certificate that land forfeited or sold for failing to list or pay taxes has been redeemed, - - - \$0 50

§ 3. The clerks of the several courts shall tax and allow as costs an attorney's fee to the successful party as follows:

1. In the court of appeals, in equity cases, - - - \$10 00
- In common law cases, where the title or boundary of land is directly or indirectly drawn in question, - - - 10 00
- In all other common law actions, - - - 5 00
2. In the circuit courts, in all cases, in law or equity, in which the title or boundary of land is drawn in question, directly or indirectly, - - - 10 00
- In other equity cases, - - - 5 00
- In other common law cases, - - - 2 50
3. In all cases in the county courts, - - - 2 50

ARTICLE II.

Register of the Land Office.

§ 1. Entering a caveat, or for a copy thereof, - - - 25

ARTICLE III.

Surveyors', Chain Carriers', and Markers' fees.

- § 1. For every original survey, and a plat of such survey, a surveyor shall have a fee of - - - \$2 00
- Surveying a town lot, - - - 50
- Running a dividing line, - - - 2 00
- Surveying land for a mill seat, - - - 2 00
- For every survey of patented land and making a plat thereof, - - - 2 00
- And for every hundred acres above four hundred in the patent, - - - 50
- For each additional tract, - - - 1 00

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For each plat and connection, - - - - -	\$1 00
For running a dividing line between two counties, to be paid by the new county, - - - - -	12 00
Receiving and receipting for a land warrant, - - - - -	20
Making an entry for land, or for a copy, - - - - -	20
Copy of a certificate of survey and plat, - - - - -	25
For every three poles of a survey actually run under an order of court, - - - - -	1
For every plat from notes taken on the ground or furnished by the parties, and calculating the contents, with a certificate attached thereto, - - - - -	1 00
For each additional plat laid down by him from field notes, or from official documents, with notes of reference, - - - - -	10
For each copy of such connected plat, - - - - -	50
Processioning land, per day, - - - - -	2 00
For each connected plat thereof, - - - - -	25
For each day's attendance on the viewers of a public road, - - - - -	2 00
A connected plat thereof, - - - - -	25

§ 2. Like fees shall be allowed a surveyor for services rendered on other occasions as are above specified.

1. Surveyors shall state their fees at length on the back of each connected plat made under an order of court, or in his attendance on processioners or viewers of roads, and on other occasions.

2. If it appears that the surveyor has charged more than is allowed by law, the court shall, by an order, reduce the same at the costs of the surveyor.

§ 3. Chain carriers and markers shall be allowed fifty cents per day for each day they shall respectively be employed in carrying the chain, or in marking lines. Their services and fees shall be reported by the surveyor.

ARTICLE IV.

Clerk of the Court of Appeals.

§ 1. Preparing a supersedeas bond, - - - - -	\$ 40
For copying the opinion of the court, for every twenty words, - - - - -	1½
Filing a record upon a writ of error or an appeal, - - - - -	20
Copy of such record, for every twenty words, - - - - -	1½
Taxing the costs in any case, for either party, - - - - -	20
A copy thereof, - - - - -	10
For examining any person, and giving him a certificate of qualification for the office of clerk, - - - - -	4 00
Filing errors, or for a copy thereof, - - - - -	10
Issuing a summons or <i>certiorari</i> , and entering the return, - - - - -	25
A copy of any bond in his office, - - - - -	20
Copy of any paper or record for which no specific fee is allowed, for every twenty words, - - - - -	1½

Copy of a caveat separate from a complete record,	\$0 25
Issuing a writ of mandamus	25
Recording the return thereof,	25

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§ 2. The clerk of the court of appeals, for all services not specified, shall receive the same compensation allowed by law to the clerks of the circuit courts for like services.

ARTICLE V.

Clerks of Circuit Courts.

§ 1. The clerks of the circuit courts, and of the county courts, (so far as the same will apply,) shall receive the following fees for the services performed by them :

For each writ not hereinafter particularly specified, with the indorsement thereon,	\$0 25
For a copy thereof,	10
Entering the sheriff's return,	10
Docketing a cause, to be charged but once in a suit,	10
Entering the appearance of each party or attorney, to be charged but once in a cause,	10
For filing each pleading of either party, and noting the same on the order book,	10
Every order of court in the progress of a cause, counting the whole entry one order, and not including any entry for which a fee is specially allowed,	25
For a copy thereof,	10
For each trial or writ of inquiry, including the swearing of the jury or witnesses, and recording the verdict and entering judgment,	75
Entering a judgment where there is no jury, including all services incident thereto,	25
Giving a copy of a judgment,	10
Taxing the costs in a suit for the successful party, to be only charged once in the same suit at the same term,	10
A copy thereof,	10
An execution of any kind, with all indorsements and orders thereon, and return, to be charged when the execution issues,	50
For a copy of an execution and return,	20
Recording an award, for every twenty words,	14
For an order making an allowance to a witness, commissioner, or other person, only one charge for all who are allowed in the cause on the same side, at the same term,	15
A copy thereof,	10
For issuing an attachment,	15
Injunction, appeal, supersedeas, attachment, or other bond,	30
For a copy of the same,	15
Certiorari, and return,	40

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<i>Subpoena duces tecum,</i>	\$0 20
<i>Subpoena</i> for a witness or witnesses,	20
Filing an appeal,	10
Entering satisfaction of a judgment, or a release or discharge of any part thereof,	15
Administering an oath in court, not relating to the trial of a cause therein, and certifying the same,	15
Filing an attachment granted by a justice of the peace,	10
Issuing a summons against a garnishee, or issuing an attachment,	15
Administering an oath to a garnishee,	10
Recording the confession of a garnishee,	15
Issuing an order for an injunction,	10
Making a warning order, or order of survey,	25
Copy of a surveyor's report, for every twenty words,	2
For copying plat,	25
An order to take depositions,	15
A copy thereof,	10
Filing the papers in any cause for each party—exclusive of the process and pleadings, or depositions or papers referred to in the pleadings—to be charged but once in a cause to each party,	20
Affixing his seal of office, and the certificate accompanying the same, except in cases exempt from charge,	50
For each official certificate, except such as are attached to copies of papers or records, or indorsements of papers filed in the office,	20
Filing the depositions, if any, of each party,	15
Entering a decree, for every twenty words,	1½
For issuing a writ of lunacy and return,	50
Copy of a record, for every twenty words,	1½
Of any other paper, not specified, the same.	
Copying a deed and certificates,	75
If more than one tract is embraced, then for each additional tract,	10
For taking a recognizance (replevin,) and to be taxed in the recognizance,	50
For taking any other bond,	30
For a copy of any bond,	15
Taking a recognizance in a penal or criminal case, to be taxed if costs are recovered,	25

ARTICLE VI.

Clerks of County Courts.

§ 1. For recording a plat and certificate of survey,	\$0 25
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Recording a deed conveying land, taking the acknowledgment or proof thereof, and certifying the same, and recording his own certificate, - -	\$1 00
Recording each certificate of other officers, -	25
For each additional tract embraced in such deed, except town lots, - - - - -	20
For a copy of a deed and the certificate thereon, -	75
For making out and transmitting the memorial of a deed, - - - - -	10
Recording a conveyance of slaves or personal estate, taking the proof or acknowledgment thereof, and recording the orders and certificates, including the whole service, - - - - -	75
A copy thereof, - - - - -	30
For the probate of a will and certificate, including all services relating thereto, - - - -	30
Recording a will, inventory, sale bill, settlement with personal representatives or guardians, or for copies thereof, for every twenty words, - -	2
An order granting administration, appointing a guardian, curator, or committee of a lunatic or idiot, or for appraising an estate, - - - -	15
Taking bond from a personal representative, guardian, or committee, - - - - -	40
A copy of an order in such case, - - - -	10
A certificate of administration and copy, - -	25
Tavern license and bond, - - - - -	50
Copy of tavern rates, - - - - -	25
License to vend spirituous liquors, &c., - -	50
Marriage license and bond, and for recording certificates of marriage, - - - - -	1 25
An order to bind out an apprentice, - - -	20
Writing the indentures, and recording the same, -	1 00
Filing an appeal from a justice of the peace, and docketing the same, to be charged but once, -	25
Taking an appeal bond, - - - - -	25
Issuing a writing of <i>ad quod damnum</i> , - -	50
Recording the report thereon, for every twenty words, - - - - -	2
Making a record for the establishment of a town, recording the plan thereof, and all other services, -	4 00
Orders establishing a ferry, - - - - -	50
Taking a bond from the owner of a ferry, or in any other case where no fee is fixed by law, -	50
A copy of any bond, - - - - -	25

ARTICLE VII.

Sheriffs.

§1. For executing and returning a process against the defendant, - - - - -	\$0 50
Serving an order of court and return, - - -	25

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Summoning a witness, - - - - - \$0 20
 Summoning an appraiser or reviewer, - - - - - 20
 For each day's attendance in the county on a jury, or attending on a surveyor, when ordered by the court, - - - - - 1 00

Whipping a free person, to be paid by the person whipped, - - - - - 40

Taking bond in a special action, - - - - - 40

For serving a *feri facias* or distress warrant, if the debt be paid, or the property sold, or a delivery bond is taken, and not complied with, the sheriff shall be entitled to five per cent. on the first three hundred dollars, and two per cent. on the residue.

1. When he shall levy an execution or a distress warrant, and the defendant replevies the debt, or the writ is stayed by injunction, appeal, or writ of error, or other legal proceedings, or by order of the plaintiff, the officer shall have half the above commissions, to be charged to the plaintiff, and shall be collected as costs in the case.

2. For taking a replevin, or forthcoming, or indemnifying bond, or any other bond, required by law, - \$0 40

For taking a recognizance, - - - - - 25

For levying an attachment, - - - - - 50

and reasonable charges for removing and taking care of attached property, to be allowed by the court.

Summoning a garnishee, - - - - - 25

Serving a writ of distringas, - - - - - 50

Summoning the jury under the rioting act, attending the trial, and conducting the offender to jail, to be paid by the defendant, - - - - - 1 50

Serving the process in such case, - - - - - 25

Summoning a witness, - - - - - 20

In collecting the county levy or revenue tax, the sheriff shall receive for levying on and selling any property, on all sums under a dollar, twenty-five cents.

3. For all sums above a dollar, six per centum in addition thereto.

4. Such sums to be retained out of the money arising from the sale, to be paid over and above the tax.

5. He shall have the same compensation for similar services in collecting officers' fees, to be paid in the same manner.

For serving an order or process of revivor. - \$0 50

For each tenant, in executing a writ of possession, - - - - - 1 00

For serving a *ca. sa.* the same commission as on a *fi. fa.* If the debt is not paid, stayed, or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, - - - - - 4 00

besides his fees for summoning witnesses.

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Summoning a jury to try disturbers of religious worship, attending the trial, and conducting the offender to jail, - - - - -	\$1 50
Arresting such person, - - - - -	50
All the costs in such case to be paid by the accused, if convicted.	
Collecting militia fines and fee bills, ten per cent.	
Serving a notice, - - - - -	25
§ 2. No sheriff or other officer shall charge any fee for taking a sale bond for the price of property sold under execution.	

ARTICLE VIII.

Constables.

§ 1. Serving a warrant for debt, - - - - -	\$0 25
Serving a peace or search warrant, - - - - -	1 00
Levying an attachment, - - - - -	40
and the reasonable value of removing and taking care of the attached goods, to be allowed by the court.	
Summoning a garnishee, - - - - -	25
Taking up a vagrant - - - - -	50
Summoning a witness, - - - - -	10
He shall have for collecting money, taking a replevin or forthcoming bond, or for a stay of execution, and other services under an execution, the same commission as is allowed a sheriff, and one per cent. more.	
For collecting fee bills, ten per cent.	
Summoning a jury, - - - - -	\$0 75
Serving a notice, - - - - -	25
For arresting and carrying a slave before a justice of the peace or other officer, on a charge of misdemeanor, - - - - -	50
For whipping a slave, under an order of a justice or other officer, to be paid out of the county levy, - - - - -	50
He shall, for all other services, be allowed the same fees as sheriffs.	

ARTICLE IX.

Coroners and Elisors.

§ 1. For taking an inquisition on a dead body, and burying it, six dollars, to be paid out of the estate of the deceased, if sufficient; if not, out of the county levy.	
For all other services, the same fees that are allowed sheriffs.	

ARTICLE X.

Jailers.

§ 1. For putting in prison and releasing a prisoner, - - - - -	\$0 40
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1852.

Each day's keeping in jail, and dieting, &c., - \$0 35
 a person under civil process, to be paid by the plaintiff, and taxed as costs against the defendant—where the prisoner is in under more than one claim, only one charge to be made, and equally divided among the plaintiffs.

Keeping and providing for a runaway, to be paid by the owner, and keeping and providing for a criminal in jail, to be paid by the state, for each day, - 35

Attending the circuit court, to be paid out of the treasury, one dollar per day, besides a reasonable compensation for fuel and lights.

For keeping the jail clean, furnishing fuel, ammunition for guard, &c., a reasonable compensation, to be paid by the county.

In all other cases, the same fees as sheriffs.

ARTICLE XI.

Justices of the Peace.

§ 1. For attending to taking depositions, per day,	\$1 00
Superintending a writ of forcible entry or detainer, per day, - - - - -	1 00
Issuing summons for a witness, - - - - -	10
Issuing a warrant in a civil case, - - - - -	15
Each original judgment, - - - - -	15
Recording same, - - - - -	15
Presiding at the trial in all cases of breaches of the peace, to be taxed against the defendant if found guilty, - - - - -	1 00
Execution, - - - - -	15
Issuing an attachment, - - - - -	25
Taking bond, - - - - -	25
For each twenty words of record, copied and certified, - - - - -	2
Certifying a record and papers on an appeal, - - - - -	25
Issuing a summons for a garnishee, - - - - -	15
Issuing a distress warrant for rent, - - - - -	25
Issuing a peace warrant, - - - - -	25
Taking a recognizance, (replevin,) to be taxed in the recognizance, - - - - -	25
§ 2. No justice shall demand or receive any fee for any service, except such as is specifically allowed by law; and where no fee is allowed by law, he shall have no compensation for his services.	
For swearing a person, and writing and certifying a certificate, - - - - -	10

1852.

ARTICLE XII.

Arbitrators.

§ 1. Arbitrators shall be allowed one dollar and fifty cents per day, each, to be paid by the successful party, and taxed in the bill of costs.

ARTICLE XIII.

Notaries public

§ 1. May demand, for every attestation, protestation, or for taking the proof or acknowledgment of any instrument of writing, and certifying the same under his seal, fifty cents.

For recording, in a book to be kept for that purpose, a protestation or attestation, fifty cents.

For swearing a person and a certificate thereof, ten cents.

ARTICLE XIV.

Viewers of roads, appraisers of estates, and processioners.

§ 1. Each viewer of a road shall be paid by the applicant, per day, - - - - - \$0 50

Appraisers of estates shall be allowed per day, to be paid out of the estate. 1 00

Processioners shall be allowed per day, each, to be paid by the employer, - - - - - 1 00

ARTICLE XV.

Witnesses and Commissioners.

§ 1. A witness shall be allowed for each day's attendance on court or arbitrators, or to give a deposition, or to give evidence on any legal occasion, - - - \$0 50

Officers attending under *subpœna duces tecum*, per day, - - - - - 1 00

A witness summoned and attending in a county different from that in which he resides, or who resides more than twenty-five miles from the court to which he is summoned, shall be allowed four cents per mile going and returning, besides ferriages and tollages, and his per diem while attending court.

A witness attending in several suits at the same time shall only be allowed to claim in one case.

To a commissioner to allot dower, per day, - 1 00

To settle accounts, or divide land or slaves, per day, - - - - - 1 50

For making the deed, - - - - - 1 50

ARTICLE XVI.

How fee bills to make out.

§ 1. The fee bills of every officer shall be made out in words, at length, in figures, and in plain English, and signed by the officer in his official capacity.

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Other fees not to be demanded.

1. No officer shall demand or receive for his services any other or greater fee than is allowed by law, or any fee for services rendered when the law has not fixed on a compensation therefor; nor any fee for services not actually rendered.

Where plaintiff or defendant sever.

2. Where there are more plaintiffs or defendants than one in an action at law, or in equity, and they shall sever in their pleadings or otherwise, so that part of them shall cause the clerk or other officer to render separate services for him or them, for which the others ought not to be liable, the fees for such services shall be charged separately to those for whom the service shall be rendered.

Name of person chargeable to be inserted.

3. No officer, in making out his fee bill, shall omit the name of any person properly chargeable therewith, or insert the name of a person not properly chargeable.

Against person trust capacity.

4. Fees against a person acting in a trust capacity, shall be made out against him in such capacity; and such persons shall only be liable therefor to the extent of the trust funds in their hands liable to the payment thereof.

No fees for ex-officio service.

5. No fee bill shall be made out, or compensation allowed hereafter, for any *ex officio* services rendered or to be rendered by any officer.

When officer dies.

§ 2. If any officer shall die before making out a fee bill or collecting his fees in any case, his deputy, or, if none, his personal representative, may, within two years after the services were rendered, make out and sign a fee bill therefor, and may list the same, in due time, for collection, with the proper officer; and the same shall be collectable and distrainable as if issued by the deceased officer in his lifetime.

Penalty for issuing illegal fee bill.

1. Any deputy or personal representative who shall knowingly make a wrong charge, or in any respect issue an illegal fee bill, shall be subject to the same liabilities, and the person the bill is against shall be entitled to the same remedies against such deputy or personal representative, as is given against an officer if issued in his lifetime.

Where affidavit of payment is made.

2. If any person against whom a fee bill is issued under this section, shall make affidavit that the fee was paid to the officer in his lifetime, and produce the affidavit to the officer having the fee bill for collection, such officer shall forthwith return the fee bill and affidavit to the person who issued it; and the same shall thereafter be collectable by action only, as other debts.

ARTICLE XVII.

When fees due and when distrainable.

§ 1. All fees shall be due and payable within two months after the services are rendered.

Witnesses' fees.

1. The fee for the attendance of a witness may be distrained for immediately after it is due, and shall retain its distrainable power for three years. From the expiration

of that period, it shall only be collectable as other debts of like quality.

2. The fees of all officers shall be distrainable on and after the first of January next ensuing the rendition of the services, and whether an officer shall list the same or not, it shall retain its distrainable force for three years; and from the expiration of that period it shall only be collectable as other debts of like quality.

§ 2. No distress shall be made for any fee bill until the same is exhibited to and a demand of payment thereof is made from the person it is against.

§ 3. Officers' fees may be distrained for immediately after the services are rendered, when the officer rendering the services shall make an affidavit on the back of such fee bill that the person it is against is about to leave the state with his effects, or that he intends and is about fraudulently to sell or dispose of his effects with the intent of hindering and delaying his creditors from the collection thereof.

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Of all officers after Jan. 1st.

Demand of payment first to be made.

Fees distrainable immediately upon affidavit of removal, fraud, &c.

ARTICLE XVIII.

Illegal fee bills and charges.

§ 1. Every fee bill containing one illegal charge, or which in any respect is not according to what is required by law, shall be void for the whole amount thereof.

§ 2. Any officer who shall split up and divide his services so as to make two charges, when the law intended but one charge or fee for the whole service, or who shall knowingly make an illegal charge or issue an illegal fee bill, or collect or attempt to collect his fees twice for the same services, or shall by any indirection collect or attempt to collect more for his services than is allowed by law, shall be considered guilty of extortion, and shall be punished accordingly.

§ 3. Any officer who shall be guilty of any of the offenses specified in the last preceding section, shall be considered guilty of a high misdemeanor, and his conviction thereof shall be *prima facie* evidence of his guilt in any proceeding to remove him from office.

§ 4. An officer who issues a fee bill shall be liable to an action at the suit of any person for a distress made on his property by virtue of such fee bill, if it contains any illegal or improper item, or an item for which the services have not been rendered, or shall omit the name of any of the parties legally chargeable therewith, or if it issues for a fee against any person not legally chargeable with the same, or that has been paid, or if the fee bill shall not strictly comport in every particular with the laws in respect to fee bills.

1. And no officer issuing such fee bill shall, in defense of such action, justify under such fee bill.

Fee bill containing illegal charge void.

Splitting services, illegal charges, &c. deemed extortion.

Conviction *prima facie* evidence in proceeding to remove from office.

Officer issuing illegal fee bill liable to action.

Officer cannot justify under.

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2. In such action, the finding of the jury shall not be less than three times the amount of the fee bill.

Erroneous or
illegal fee bills
may be submit-
ted to circuit
judge, quashed,
&c.

§ 5. If any person shall pay any fee bill or claim for fees, in which he believes there is an erroneous, improper, or illegal item or items, or charge or charges for services not actually rendered, or that the fee bill does not comport with the law in every respect, he may hand such fee bill to the circuit judge who presides in the county where the person who paid the bill resides, either in vacation or in term time; and, thereupon, such judge, after inspecting the fee bill, shall, if there be any item therein not authorized by law, or if the fee bill does not comport with the law in every respect, the judge shall, at the term that he receives the fee bill, or, if in vacation, at the next term of the court holden for that county, proceed to quash such fee bill and order the officer to repay the amount of the fee bill to the person who had paid the same, and for the costs of the proceeding.

Fine of officer.

1. He shall, moreover, enter up a fine against the officer who issued such fee bill, in favor of the person aggrieved, of not less than one dollar nor more than four dollars for each illegal item contained therein. The production of the fee bill by the party charged shall be *prima facie* evidence of its payment.

Production of
bill, evidence of
payment.

If bill correct,
restored with-
out cost.

2. If the court or judge is of the opinion that there is no improper charge or illegal item in the fee bill, for which it ought to be quashed, he shall restore it to the person placing it in his hands, without costs or expense.

Fieri facias
for fines, &c.

3. A *fieri facias* may issue in behalf of the person aggrieved for all the sums and costs adjudged under this section, which shall be indorsed that no surety is to be taken.

Defendant to
have two days
notice.

4. Before any judgment is entered under the provisions of this section, the defendant in the proceedings must have at least two days notice thereof by rule or otherwise.

When distress
made under ille-
gal fee bill, copy
thereof may be
demanded.

§ 6. If distress be made upon the property of any person for a fee bill, which has any unjust or improper charge or item therein, or any item that is not made out in every respect agreeably to the requirements of law, such person may apply to the officer making such distress for an exact copy of the fee bill, whose duty it shall be to make out and deliver the same to such person forthwith.

On inspection
of copy, judge
to stay proceed-
ings.

1. On the receipt of such copy, the person on whom the distress is made may lay the same before the circuit judge who presides in the county of his residence, and if on the inspection thereof the judge shall be of opinion that the fee bill contains one unjust item, or one item not made out in every respect according to the requirements of law, he shall, by written indorsement thereon, order the officer to stay proceedings under the distress until the matter is determined in court.

2. Upon the receipt of such order, the officer making the

distress shall obey the same, and restore the property distrained to the owner.

3. The officer shall, moreover, return the fee bill and copy, with the judge's order thereon, to the circuit court clerk's office of his county, with the facts of the case indorsed on the fee bill.

4. The officer who issued the fee bill shall be notified as directed in the preceding section.

5. At the term of the court at which the judge makes the order on the fee bill, or if made in vacation, at the next term thereof, the court shall proceed to act on and quash the fee bill, and render judgment against the officer issuing the same, for the amounts and in the manner stated in the next preceding section, and for which execution may issue.

§ 7. No officer shall be entitled to any fee in a proceeding for a misdemeanor, unless the same is recovered and collected from the defendant, in which cases the fees allowed and to be taxed shall be the same as for similar services in civil cases.

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Fee bill and copy to be returned to clerk's office.

Notice to officer issuing.

Fee bill to be quashed, and judgment entered against officer.

No fees allowed misdemeanors, unless collected from defendant.

CHAPTER LXXIV.

FORFEITED LANDS.

ARTICLE I.

Lands not to be taxed.

§ 1. Lands held by a school or seminary shall not be subject to taxation, or to forfeiture, for any cause whatsoever.

School and seminary lands.

ARTICLE II.

Concerning the redemption of forfeited lands.

§ 1. If any person, having a right to redeem lands forfeited, was, or shall be an infant, married woman, of unsound mind, imprisoned, or out of the United States upon the business of this state or of the United States, at the time of the omission to list the same, or to pay the taxes thereon, such person or his heirs shall have two years to redeem the forfeited lands, from and after such disability is removed, or from and after his death, if that first happen.

Lands of infants, married women, &c.

ARTICLE III.

Concerning the sale of forfeited lands.

§ 1. It shall be the duty of each agent appointed in the respective counties by the auditor of public accounts, as provided for in the chapter on Escheats and Escheators, to ascertain and report to the auditor a description of the quality, quantity, and locality of the several tracts of land lying in his county, owned by residents of the state, which

Agent to report description of land, &c.

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have not been listed for taxation, and the names of the proprietors, and the year for which the same was not listed.

Auditor to make entry.

1. The auditor shall enter in a book, to be kept by him, the names of non-residents and of residents who own lands in the state which are not listed for taxation, and the quantity owned, the county in which the lands lie, and such other description thereof as he can reasonably procure.

Residents and non-residents.

2. The book must designate which part of the lands are held by residents and which by non-residents.

Lands of non-residents forfeited, to be sold.

§ 2. Lands belonging to non-residents which may be forfeited for failing to list the same, or for the failing to pay the taxes due thereon, may, after the time allowed for redeeming the same expires, be sold at public sale, on reasonable notice at the court house door of the county, on a court day designated by the auditor, as provided in the chapter on Escheats and Escheators.

Proceeds paid into treasury.

1. The proceeds shall be accounted for and paid into the treasury, and the title must be made to the purchaser as is provided in the chapter last referred to.

To be sold to former owner for taxes, interest, &c.

2. Before forfeited lands shall be sold, the agent or attorney appointed by the auditor shall, on the application of the former owner, or his heir, devisee, or vendee, sell him the land for the taxes, with the interest and charges due thereon, and ten *per centum* on the whole amount, to the agent or attorney for his compensation.

Or to person in possession.

3. If no former owner, or his heirs or vendee, will purchase the lands, any one in possession of the same, or any part thereof, under an adverse title, shall have a right to make the purchase of such part on the terms stated in the last preceding subsection.

CHAPTER LXXV.

ATTORNEYS.

Traitors and felons not allowed to practice.

§ 1. No person convicted of treason or felony shall be permitted to practice in any court as counsel or attorney at law.

Attorneys of other states.

§ 2. Attorneys at law of any of the United States, who have been regularly admitted to practice in the superior courts of such states, may be admitted to practice law in any of the courts of this state.

They shall be under the same responsibility for the faithful discharge of their duties, as are imposed on attorneys resident in this state.

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CHAPTER LXXVI.

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SHERIFF, CORONER, &c.

§ 1. Any payment made to a sheriff or other officer, or his deputy, on an execution, after the return day thereof, and while the same remains in his hands, shall, to the extent thereof, be deemed a satisfaction of so much of the same; and the officer and his sureties in his official bond shall be responsible therefor in the same manner as if the payment were made before the return day.

Payment on execution after return day.

CHAPTER LXXVII.

CONFESSION OF JUDGMENT.

§ 1. A power of attorney to confess judgment, or to suffer judgment to pass by default or otherwise, and every release of errors, given before an action is instituted, are declared to be null and void.

Power of attorney to confess judgment, &c., void.

1. If any attorney or other person shall appear under such power for any defendant, in any court in this state, such attorney or other person shall forfeit and pay one thousand dollars to such defendant.

Penalty for appearing under

2. He shall be, moreover, liable to damages, at the suit of the party aggrieved.

Also liable to damages.

CHAPTER LXXVIII.

REAL ESTATE.

The sixth section of the chapter on "Real Estate," is hereby repealed, and the following is enacted in lieu thereof:

Section repealed.

§ 6. The dying seized of a disseizor shall not be such descent in law as to take away the right of entry of any who have such right, at the death of the disseizor, unless he shall have had fifteen years peaceable possession after the disseizin was committed.

Dying seized of disseizor.

CHAPTER LXXIX.

ALLOWING ACTIONS IN CERTAIN CASES.

§ 1. A charge of incest, fornication, or adultery against a female, shall be actionable; and in such cases the plaintiff shall not be held to allege or prove special damage.

Charge of incest, fornication, &c. against female.

§ 2. An action for seduction may be maintained without any allegation or proof of the loss of service of the female, by reason of the wrongful act of the defendant.

Action for seduction.

§ 3. If property be distrained or attached without good cause for suing out such distress or attachment, the owner of such property may, in an action against the party suing

Action for wrongful distress or attachment.

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out the distress or attachment, recover damages for the wrongful seizure; and if the property be sold, also damages for the sale thereof. In such cases, the plaintiff shall not be held to allege or prove malice on the part of the defendant.

CHAPTER LXXX.

LIMITATION OF ACTIONS AND SUITS.

ARTICLE I.

Does not apply
to suits already
commenced.

§ 1. The provisions of this chapter shall not apply to suits or actions already commenced, nor to cases in which the right of action has accrued, but the laws of limitations now in force shall be applicable to such cases according to the subject of the action, and without regard to form.

For recovery
of real property.

§ 2. An action for the recovery of real property can only be brought within fifteen years after the right to institute it first accrued to the plaintiff, or to the person through whom he claims.

Infants, mar-
ried women, or
of unsound
mind.

§ 3. If, at the time the right of any person to bring an action for the recovery of real property first accrued, such person was an infant, married woman, or of unsound mind, then such person, or the person claiming through him may, notwithstanding the period of fifteen years has expired, bring the action within three years after the time at which the person to whom the right first accrued ceased to be under such disability as existed when the same so accrued, or died, whichever has happened first.

Time not ex-
tended by dis-
ability not exist-
ing when right
accrued, &c.

§ 4. The time within which an action for the recovery of real property may be brought, shall not be extended by reason of any disability which did not exist when the right to bring the action first accrued, nor by reason of any disability of the heirs of the person to whom the right first accrued.

As to real
property, not
extended in any
case beyond 30
years.

§ 5. The period within which an action for the recovery of real property may be brought shall not, in any case, be extended beyond thirty years from the time at which the right to bring the suit first accrued to the plaintiff, or the person through whom he claims, by reason of any death, or the existence or continuance of any disability whatever.

No continual
claim.

§ 6. No continual claim upon or near real property shall preserve a right to bring an action.

For recovery
of wife's land,
conveyed joint-
ly with her hus-
band.

§ 7. An action by a female or her heirs, or devisee, or vendee, for the recovery of real property, for the conveyance of which she has jointly with her husband executed a deed, after her arrival at the age of twenty-one years, and acknowledged such execution before an officer authorized to take an acknowledgment of a married woman's deed, conveying her inheritance, can only be brought within

three years next after she became discover, or within three years next after the right to bring the action accrued to her heirs, devisees, or vendee, when she died during coverture.

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§ 8. If, in any case mentioned in the last section, the female, when she became discover, was of unsound mind, the action may be brought by her, or those claiming under her, within three years next after the removal of such disability, or next after her death, whichever has or may happen first. And when the female dies during coverture, and her heirs are all under the disability of coverture, infancy, or unsoundness of mind, when the right to bring the action accrues to them, the action may be brought within three years next after the removal of such disability as to any of them.

Disabilities.

§ 9. But the period within which an action for the recovery of real property, in any case mentioned in the seventh section of this article may be brought, shall not be extended beyond ten years from the time the female became discover, or the right of her heirs, devisees, or vendee to bring the suit first accrued, whichever has or may happen first, by reason of any disability whatever.

Time not to be extended beyond 10 years.

ARTICLE II.

Limitation.

§ 1. No action at law or in equity shall be brought under or by virtue of an adverse, interfering entry, survey, or patent, to recover the title or possession of land from an occupant where he, or the person under whom he claims, has a connected title thereto in law or equity, deducible of record from the commonwealth, and has or shall have had an actual occupancy of the same by settlement thereon, under such title, for seven years before the commencement of the action, and such possession of land shall bar and toll the right of entry into such land by any person, under an adverse title or claim, and such possession as will bar the right to recover the same, shall vest the title in the occupant or his vendee.

Limitation where title derived from commonwealth and possession for seven years.

This limitation shall not apply to a person who is an infant, a married woman, of unsound mind, or out of the United States, in the employment of the United States or of this state at the time the cause of action accrued, nor until seven years after the removal of such disability; but the disability of one of several claimants shall save only his own right, and not that of another.

Disabilities.

ARTICLE III.

Actions other than for real property.

§ 1. Civil actions, other than those for the recovery of real property, shall be commenced within the following

1852.

periods after the cause of action has accrued, and not after:

Certain actions
to be brought
within 15 years.

An action or suit upon a judgment or decree of any court of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon; an action or suit upon a recognizance bond or written contract; an action upon the official bond of a sheriff, marshal, sergeant, clerk, constable, or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, committee, or trustee appointed by a court or authority of law; an action upon an appeal bond, or bond given on a supersedeas, attachment, injunction, order of arrest, or for the delivery of property, or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge, or by an officer pursuant to the directions of a court or judge, in an action, or after judgment or decree, or upon a replevin, sale or delivery bond taken under execution, decree, or warrant of distress, upon an indemnifying bond taken under a statute, or upon a bond to suspend a proceeding or sale under execution, distress warrant, order, or decree, or other judicial proceeding, or upon a bond or obligation for the payment of money or property, or for the performance of any undertaking, shall be commenced within fifteen years after the cause of action first accrued.

Actions to be
brought within
five years.

§ 2. An action upon a contract not in writing, signed by the party, express or implied; an action upon a liability created by statute, when no other time is fixed by the statute creating the liability; an action for a penalty or forfeiture when no time is fixed by the statute or law prescribing the same; an action for trespass on real or personal property; an action for the profits of or damages for withholding real or personal property, actions for the taking, detaining, or injuring personal property, including actions for the specific recovery thereof; an action for the injury to the rights of the plaintiff, not arising on contract, and not hereinafter enumerated; an action upon a bill of exchange, check, draft, or order, or any indorsement thereof, or upon a promissory note, placed upon the footing of a bill of exchange; an action to enforce the liability of a steamboat or other vessel, or an action to enforce a mechanic's lien in those cases where the claim or lien upon the building is specifically given by statute; an action upon an account concerning the trade of merchandise, between merchant and merchant, or their agents; an action for relief on the ground of fraud or mistake, and an action to enforce the liability of bail, shall be commenced within five years next after the cause of action accrued.

§ 3. An action for an injury to the person of the plaintiff, or of his wife, child, ward, apprentice, or servant; an

action for a malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage; an action for libel or slander; an action for the escape of a prisoner arrested or imprisoned on civil process; an action upon a merchant's account, for goods, wares, and merchandise sold and delivered, or any article charged in such store account, shall be commenced within one year next after the cause of action accrued.

§ 4. In every action upon such merchant's account as last above described, the limitations shall be computed from the first day of January next succeeding the respective dates or times of the delivery of the several articles charged in the account; and judgment shall be rendered for no more than the amount of such articles as were actually charged or delivered within the year preceding that in which the action was brought; and if any merchant or trader shall willfully post date any article charged in such account, or the receipt for the delivery thereof, or cause it to be done, he shall forfeit ten fold the amount of such article post dated, to be recovered by any person who may sue for the same, by action before that tribunal which may have jurisdiction.

§ 5. In actions for relief for fraud or mistake, or damages for either, the cause of action shall not be deemed to have accrued until the discovery of the fraud or mistake, but no such action shall be brought ten years after the time of making the contract or the perpetration of the fraud.

§ 6. In an action to recover a balance due upon a mutual open and current account, concerning the trade of merchandise, between merchant and merchant, or their agents, where there have been reciprocal demands between the parties, the cause of action is deemed to have accrued from the time of the last item proved in the account claimed, or proved to be chargeable on the adverse side.

§ 7. The right of action, upon the official bond of a guardian, personal representative, curator, of the sheriff, or other officer acting as personal representative, or of any other person receiving and holding money to be distributed to a ward, distributee, or devisee, under the order of court or by authority of law, of a ward, distributee, devisee, or other person entitled, who was an infant when such bond was executed, shall not be deemed to have accrued, unless otherwise expressed in said bond, before the plaintiff attained the age of twenty-one years. Where there are several wards, or several distributees, or devisees, or other beneficiaries secured by the same bond, who, or some of whom, were infants when the bond was given, the right of action of each one of such infants shall not be deemed to have accrued before he attained the age of twenty-one years.

§ 8. An action for relief, not provided for in this or some other chapter, can only be commenced within ten years next after the cause of action accrued.

1852.

Actions to be brought within one year.

In merchants' accounts; limitation computed from January 1.

Penalty for post dating.

Actions for fraud.

To recover balance on open or current accounts.

Actions upon bond of guardian, personal representative, &c.; when right accrues.

Other actions for relief within 10 years.

1852.

Certain actions
to be brought
within 15 years.

periods after the cause of action has accrued, and not after:

An action or suit upon a judgment or decree of any court of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon; an action or suit upon a recognizance bond or written contract; an action upon the official bond of a sheriff, marshal, sergeant, clerk, constable, or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, committee, or trustee appointed by a court or authority of law; an action upon an appeal bond, or bond given on a supersedeas, attachment, injunction, order of arrest, or for the delivery of property, or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge, or by an officer pursuant to the directions of a court or judge, in an action, or after judgment or decree, or upon a replevin, sale or delivery bond taken under execution, decree, or warrant of distress, upon an indemnifying bond taken under a statute, or upon a bond to suspend a proceeding or sale under execution, distress warrant, order, or decree, or other judicial proceeding, or upon a bond or obligation for the payment of money or property, or for the performance of any undertaking, shall be commenced within fifteen years after the cause of action first accrued.

Actions to be
brought within
five years.

§ 2. An action upon a contract not in writing, signed by the party, express or implied; an action upon a liability created by statute, when no other time is fixed by the statute creating the liability; an action for a penalty or forfeiture when no time is fixed by the statute or law prescribing the same; an action for trespass on real or personal property; an action for the profits of or damages for withholding real or personal property, actions for the taking, detaining, or injuring personal property, including actions for the specific recovery thereof; an action for the injury to the rights of the plaintiff, not arising on contract, and not hereinafter enumerated; an action upon a bill of exchange, check, draft, or order, or any indorsement thereof, or upon a promissory note, placed upon the footing of a bill of exchange; an action to enforce the liability of a steamboat or other vessel, or an action to enforce a mechanic's lien in those cases where the claim or lien upon the building is specifically given by statute; an action upon an account concerning the trade of merchandise, between merchant and merchant, or their agents; an action for relief on the ground of fraud or mistake, and an action to enforce the liability of bail, shall be commenced within five years next after the cause of action accrued.

§ 3. An action for an injury to the person of the plaintiff, or of his wife, child, ward, apprentice, or servant; an

action for a malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage; an action for libel or slander; an action for the escape of a prisoner arrested or imprisoned on civil process; an action upon a merchant's account, for goods, wares, and merchandise sold and delivered, or any article charged in such store account, shall be commenced within one year next after the cause of action accrued.

§ 4. In every action upon such merchant's account as last above described, the limitations shall be computed from the first day of January next succeeding the respective dates or times of the delivery of the several articles charged in the account; and judgment shall be rendered for no more than the amount of such articles as were actually charged or delivered within the year preceding that in which the action was brought; and if any merchant or trader shall willfully post date any article charged in such account, or the receipt for the delivery thereof, or cause it to be done, he shall forfeit ten fold the amount of such article post dated, to be recovered by any person who may sue for the same, by action before that tribunal which may have jurisdiction.

§ 5. In actions for relief for fraud or mistake, or damages for either, the cause of action shall not be deemed to have accrued until the discovery of the fraud or mistake, but no such action shall be brought ten years after the time of making the contract or the perpetration of the fraud.

§ 6. In an action to recover a balance due upon a mutual open and current account, concerning the trade of merchandise, between merchant and merchant, or their agents, where there have been reciprocal demands between the parties, the cause of action is deemed to have accrued from the time of the last item proved in the account claimed, or proved to be chargeable on the adverse side.

§ 7. The right of action, upon the official bond of a guardian, personal representative, curator, of the sheriff, or other officer acting as personal representative, or of any other person receiving and holding money to be distributed to a ward, distributee, or devisee, under the order of court or by authority of law, of a ward, distributee, devisee, or other person entitled, who was an infant when such bond was executed, shall not be deemed to have accrued, unless otherwise expressed in said bond, before the plaintiff attained the age of twenty-one years. Where there are several wards, or several distributees, or devisees, or other beneficiaries secured by the same bond, who, or some of whom, were infants when the bond was given, the right of action of each one of such infants shall not be deemed to have accrued before he attained the age of twenty-one years.

§ 8. An action for relief, not provided for in this or some other chapter, can only be commenced within ten years next after the cause of action accrued.

1852.

Actions to be brought within one year.

In merchants' accounts; limitation computed from January 1.

Penalty for post dating.

Actions for fraud.

To recover balance on open or current accounts.

Actions upon bond of guardian, personal representative, &c.; when right accrues.

Other actions for relief within 10 years.

1852.

Limitations
apply to actions
in name of com-
monwealth.

Writs of error;
within what
time.

§ 9: The limitations prescribed in this chapter shall apply to actions brought by or in the name of the commonwealth, in the same manner as to actions by private persons, except where a different time is prescribed by some other chapter in this revision.

§ 10. A writ of error to reverse a judgment or decree must be brought or sued out within three years next after the same was rendered.

If any person or persons entitled to such writ be, at the time the judgment or decree is rendered, an infant, a married woman, or of unsound mind, such person may, within two years next after the removal of the disability, sue out the writ, though such three years may have expired.

A writ of error to a judgment or order of the county court concerning a mill dam must be sued out within one year after the same was rendered.

ARTICLE IV.

General provisions.

When action
deemed to be
commenced.

§ 1. An action shall be deemed to have been commenced at the date of the first summons or process issued in good faith from the court or tribunal having jurisdiction of the cause of action.

Effect of disa-
bilities of in-
fancy, marriage,
&c.

§ 2. If a person entitled to bring any of the actions mentioned in the third article of this chapter, except for a penalty or forfeiture, was, at the time the cause of action accrued, an infant, married woman, or of unsound mind, the action may be brought within the like number of years after the removal of such disability or death of the person, whichever happened first, that is allowed to a person having no such impediment to bring the same after the right accrued.

When person
entitled to bring
action dies be-
fore limitation
expires.

§ 3. If a person entitled to bring any action mentioned in the third article of this chapter, dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, the action thereon may be brought by his representative, after the expiration of that time, if commenced within one year after his death.

When before
right of action
accrued.

§ 4. If a person dies before the time at which the right to bring any action mentioned in the third article of this chapter would have accrued to him if he had continued alive, and there is an interval of more than three years between his death and the qualification of his personal representative, such representative, for purposes of this chapter, shall be deemed to have qualified on the last day of such period of three years.

When person
liable to action
dies.

§ 5. If a person against whom any action mentioned in the third article of this chapter may be brought, dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action

may be commenced against his personal representative, devisee, or heirs, or all, after the expiration of that time, and within one year after the qualification of his personal representative; and if there is no personal representative, the action may be brought against his heirs, or devisees, or both, after the expiration of the time limited for bringing the same, and within two years after his death.

1892.

§ 6. No action against a personal representative who has settled his accounts, and made distribution of the whole assets in his hands, on any judgment or decree against such testator or intestate, or on any contract made by him, shall be brought after the expiration of seven years after the qualification of such representative.

Limitation to actions against personal representatives.

§ 7. No action upon a cause which accrued against a deceased person in his lifetime, shall, when his estate has been distributed and divided, be brought against his heirs or devisees, jointly with his personal representative, after the expiration of seven years from his death.

Against heirs and devisees.

§ 8. If at the time any cause of action mentioned in the third article of this chapter accrues against a resident of this state, he is absent therefrom, the period limited for the commencement of the action thereupon against him, shall be computed from the time of his return to this state.

Against residents absent from state.

§ 9. When a cause of action mentioned in the third article of this chapter accrues against a resident of this state, and he, by departing therefrom, or by absconding or concealing himself, or by any other indirect means obstructs the prosecution of the action, the time of the continuance of such absence from the state, or obstruction, shall not be computed as any part of the period within which the action may be commenced. But this section shall not avail any other person, notwithstanding another might be jointly sued with him if there had been no obstruction.

Against one who obstructs prosecution of action by departing, absconding, &c.

§ 10. If an action is commenced in due time, and a judgment thereon for the plaintiff is reversed, the plaintiff, or, if he dies and the cause of action survives, his representative may commence a new action within one year after the reversal.

When judgment reversed.

§ 11. Where the plaintiff is an alien, and a subject or citizen of a country at war with the United States, the time of the continuance of the war is not to be computed as part of the period limited for the commencement of the action.

When plaintiff is alien enemy.

§ 12. When the commencement of the action is stayed by injunction, the time of the continuance of the injunction is not part of the period limited for the commencement thereof.

When commencement of action stayed by injunction.

§ 13. The time of the confinement of the plaintiff in the penitentiary is not a part of the period limited for the commencement of the action.

When plaintiff confined in penitentiary.

1857.

Disability must
exist when
cause of action
accrues.

When several
disabilities ex-
ist.

Action to re-
deem land mort-
gaged.

To redeem
personal prop-
erty mortgaged.

Action upon
foreign judg-
ment or decree.

Upon cause of
action arising in
other states, &c.

Exceptions.

Action allow-
ed widow and
minor children
for damages.

Parties not
used competent
witnesses.

§ 14. No person can avail himself of a disability in any action mentioned in the third article of this chapter, unless it existed when his cause of action accrued.

§ 15. When two or more disabilities co-exist in the same person at the time the right of action accrues, the limitation does not attach until they are all removed.

§ 16. After a mortgagee of real property, or any person claiming under him, has had fifteen years continued adverse possession, claiming the premises as his own, no action shall be brought by the mortgagor, or any one claiming under him, to redeem it.

§ 17. The provision of the last section shall apply in case of a mortgage of personal property, with the difference that the period within which the action to redeem may be brought, shall be five years.

§ 18. When, by the laws of any other state or country, an action upon a judgment or decree rendered in such state or country, cannot be maintained there, by reason of the lapse of time, and such judgment or decree is incapable of being otherwise enforced there, an action upon the same cannot be maintained in this state, except in favor of a resident thereof, who has had the cause of action from the time it accrued.

§ 19. When a cause of action has arisen in another state or country, between residents of such state or country, or between them and residents of another state or country, and by the laws of the state or country where the cause of action accrued an action cannot be maintained thereon, by reason of the lapse of time, no action can be maintained thereon in this state.

§ 20. The provisions of this chapter shall not apply in the case of a continuing and subsisting trust, nor to an action by a vendee of real property in the possession thereof, to obtain a conveyance.

CHAPTER LXXXI.

DUELING.

§ 1. The widow and minor child of a person killed in a duel, or either of them, may have an action against the surviving principal, the seconds, and all others aiding or promoting the duel, or against any one or more of them, for reparation of the injury, and in which the jury may give vindictive damages, for the suppression of the practice of dueling.

§ 2. The failure to include any of the persons designated by the last section, as defendants in the action, shall discharge them from all liability under that section, and they shall be competent witnesses for the plaintiff or defendant.

The testimony of such persons, thus given, shall not be used in any prosecution by the commonwealth, or other procedure to recover a penalty against such persons.

1838.

CHAPTER LXXXII.

CAUSES OF ACTION WHICH SURVIVE.

§ 1. No right of action for personal injury, or injury to real or personal estate, shall cease or die with the person injuring or the person injured, except actions for assault and battery, slander, criminal conversation, and so much of the action for malicious prosecution as is intended to recover for the personal injury; but for any injury other than those excepted, an action may be brought or revived by the personal representative, or against the personal representative, heir, or devisee, in the same manner as causes of action founded on contract.

CHAPTER LXXXIII.

CRIMES AND PUNISHMENTS.

ARTICLE I.

General provisions.

Offenses are either felonies or misdemeanors.

§ 1. Such offenses as are punishable with death or confinement in the penitentiary, are felonies. Offenses committed by slaves, and punishable alone by stripes, are, as to them, misdemeanors. All other offenses, whether at common law or made so by statute, are misdemeanors.

Felonies and misdemeanors.

§ 2. No crime shall be punished with death unless it be directed by statute.

Punishment

§ 3. A common law offense, for which punishment is prescribed by statute, shall be punished only in the mode so prescribed.

§ 4. The commission of a felony shall not stay or merge any civil remedy of the party aggrieved against the felon.

Felony no merge of civil remedy.

§ 5. All offenses shall be tried in the courts, or by the tribunals of that county or city having jurisdiction of them, in which they were committed, except in cases otherwise provided for.

Where offenses to be tried.

§ 6. When it is a matter of doubt, in the opinion of the court, in which of two or more counties the offense was committed, the court of either in which the indictment is found, shall have jurisdiction of the offense.

When doubtful where offense committed.

§ 7. If a mortal wound or other violence or injury be inflicted, or poison be administered, in one county or corporation, and death ensues in another, the offense may be prosecuted in either.

Where wounding or poisoning in one county, and death in another.

1852:

When second
trial after ac-
quittal.*Nolle prosequi.*

No approvers.

Accessories
before the fact.Accessories
after the fact.Second and
third, operat-
ing for felony.Continuance
of prosecution.Evidence in
cases of forgery.Restoration of
property stolen,
&c.

§ 8. A person acquitted of an offense on the ground of a variance between the allegations and the proof, or upon an exception to the form or substance of the indictment or accusation, may be arraigned again upon a new indictment, or other proper accusation, and tried and convicted, notwithstanding such previous acquittal. At any time before a jury is sworn in a criminal prosecution, the commonwealth, by her attorney, by leave of court, may enter a *nolle prosequi*.

§ 9. Approvers shall not be admitted in any case.

§ 10. In all felonies, accessories before the fact shall be liable to the same punishment as the principals, respectively, and may be prosecuted jointly with those principals, or severally, though their principals be not taken or tried.

§ 11. Accessories after the fact, not otherwise punished, shall be guilty of high misdemeanors, and fined and imprisoned at the discretion of the jury, and may be tried, though their principals be not taken or tried. But no person in the relation of husband and wife, parent or grandparent, child or grand-child, brother or sister, or servant, to the offender, who, after the commission of the felony, shall aid or assist a principal felon or accessory before the fact, to avoid or escape from prosecution or punishment, without forcibly breaking a prison in which such felon may be confined, or taking him by force from an officer or guard, shall be deemed an accessory after the fact.

§ 12. Every person convicted a second time of felony, the punishment of which is confinement in the penitentiary, shall be confined in the penitentiary not less than double the time of the first conviction; and if convicted a third time of felony, he shall be confined in the penitentiary during his life. Judgment in such cases shall not be given for the increased penalty, unless the jury shall find, from record and other competent evidence, the fact of former convictions for felony committed by the prisoner, in or out of this state.

§ 13. Prosecutions for felony may be continued at the discretion of the court, as often as good grounds for such continuance shall be made out. No number of such continuances shall operate a discharge of the prisoner.

§ 14. Persons by whom a forged instrument of writing purports to have been executed, shall be competent witnesses on the trial of any prosecution for such forgery. Judgment of conviction for forgery shall not destroy the legal validity of the writing charged to have been forged, or be used as evidence in any civil controversy relative to the same.

§ 15. In all cases of conviction of felony, the party convicted shall restore the property stolen or destroyed, or make reparation in damages therefor. The court in which such conviction may be had, if applied to at the same term

in which the sentence was pronounced, by petition, verified by affidavit, may order restitution or give judgment against the convict for reparation in damages, and enforce the collection of the same by execution or other process.

1852.

§ 16. In motions for restitution or reparation, the court shall cause the prisoner to be set within the bar, and demand of him if he has any defense to make to the motion. And if the convict consents to such restitution or reparation in damages, the court shall give judgment accordingly, if the damages are agreed. Otherwise, a jury shall be impaneled to try the facts, and ascertain the amount and value of the property, or assess the damages, as the case may be. A failure to pursue the remedy hereby given, shall not deprive the party aggrieved of his civil action for the injury sustained. The party injured shall have a lien on the estate of the criminal from the time of his arrest.

How value,
&c. ascertained.

§ 17. The jury by whom any offender may be tried, shall fix by their verdict the quantum of punishment to be inflicted, within the periods or amount prescribed by law as the punishment for the offense.

Jury to fix
punishment.

§ 18. All claims to dispensation of punishment by benefit of clergy, are hereby abolished.

Benefit of clergy
abolished.

§ 19. Persons sentenced to punishment by a confinement in the penitentiary, shall be kept at hard labor and solitary confinement.

Punishment in
penitentiary.

§ 20. Persons sentenced to suffer death shall be hung by the neck until dead, at such time and place as the court shall order, by the sheriff of the county or other person designated by the court. The time fixed for the execution of the sentence shall not be less than twenty nor more than ninety days, unless the public peace and safety, in the opinion of the court, require a shorter time.

Mode and time
of punishment
by death.

The expenses of the execution and burial, when certified by the court, shall be paid out of the public treasury.

Expenses of
execution.

§ 21. Prosecutions by the commonwealth for felony shall not be barred by lapse of time or any statute of limitations. Prosecutions by the commonwealth to recover a penalty for a violation of any penal statute or law, and a suit or procedure at the instance of any person, to recover any such penalty, shall be commenced within one year after the penalty or forfeiture has occurred, and not after, unless a different time is allowed by the statute imposing the fine or penalty. Prosecutions for profane swearing, cursing, or being drunk, or sabbath-breaking, and against surveyors of public highways, shall be made within six months after the offense is committed, and not after.

What prosecutions
barred by
time, and when.

§ 22. In aggravated cases of murder, and other felonies against the person, when the accused shall flee from justice, the governor of the commonwealth of Kentucky, on a petition of the county judge or circuit judge of the coun-

Order of re-
wards by gov-
ernor.

1852.

ty, shall be authorized to issue his proclamation, and offer a reward, not exceeding \$500, for the apprehension of the accused.

Imprisonment
in county jail,

§ 23. In all cases where the party convicted of an offense is punished by fine and imprisonment, or by imprisonment alone, the imprisonment shall be by close confinement in the jail of the county in which the defendant was tried.

Fines and for-
feitures, to
whom enure.

§ 24. All fines and forfeitures which may be imposed by law, shall enure and vest in the commonwealth, except in cases where, by law, the whole or a part thereof shall be given to a person or to some particular object.

Proportion al-
lowed to attor-
neys for com-
monwealth.

Attorneys for the commonwealth in the several districts shall be entitled, as fees for their services, to one fourth of the fines assessed against persons for permitting gaming in or at any place prohibited by law. One half of all fines assessed against persons for keeping a tipling house; twenty per cent. of all fines assessed against persons for standing horses, jacks, and bulls without license; and twenty per cent. of all judgments on forfeited recognizances in favor of the commonwealth.

How recovered.

§ 25. Fines or forfeitures imposed may be recovered by civil procedure, before any judicial tribunal having jurisdiction, or upon indictment or presentment of a grand jury.

When provis-
ions to apply to
slaves and free
negroes.

§ 26. The provisions of this chapter shall not apply to slaves, except where slaves are specifically named, nor shall they apply to free negroes, when the punishment of a free negro for the same offense is provided for elsewhere in the revised statutes.

ARTICLE II.

Jurisdiction.

Concurrent
jurisdiction of
counties over
river, &c., being
common bound-
ary.

§ 1. In all cases where any part of a river, water, water-course, highway, road, or street, shall be the boundary line between two counties, the courts, and judges, and justices, and all circuit and county officers of both such counties, shall have concurrent jurisdiction in all cases over the whole extent of such parts of said river, water, water-course, highway, road, or street.

Courties bor-
dering on the
Mississippi, O-
hio, &c.

§ 2. The circuit court of each county bordering on the Mississippi, Ohio, Big Sandy, or Tennessee rivers, shall have concurrent jurisdiction of any treason or felony committed on any of said rivers.

No person to be
twice punished
or put in jeop-
ardy for same of-
fense.

§ 3. No person shall be twice punished or put in jeopardy for the same offense, under the provisions of the two preceding sections.

ARTICLE III.

1852.

Treason and willful murder.

§ 1. If any person be guilty of treason against the commonwealth of Kentucky, he shall be punished with death, or be confined in the penitentiary, not less than ten nor more than twenty years, at the discretion of the jury.

Treason punished with death.

§ 2. All distinction between petit treason and willful murder is abolished.

§ 3. If any free white person advise, counsel, or conspire with a negro, bond or free, and cause him to rebel or make insurrection against the authority of his master or the laws of the land, he shall be punished with death, or confined in the penitentiary not less than six nor more than ten years, at the discretion of the jury.

Conspiracy of white person with negro.

§ 4. If any person be guilty of willful murder, he shall be punished with death.

Willful murder.

ARTICLE IV.

Voluntary manslaughter, rape, and seduction.

§ 1. Whoever shall be guilty of voluntary manslaughter, shall be confined in the penitentiary not less than two nor more than ten years.

Voluntary manslaughter.

§ 2. Any person who shall willfully strike, stab, thrust, or shoot another, not designing thereby to produce or cause his death, and which is not done in self defense, or in an attempt to keep and preserve the peace, or in the lawful arrest or attempt to arrest a person charged with felony or misdemeanor, or in doing any other legal act, so that the person struck, stabbed, thrust, or shot, shall die thereof within six months next thereafter, shall be confined in the penitentiary not less than one nor more than six years.

Stabbing, shooting, &c.

§ 3. If any person shall be convicted of the crime of rape upon the body of an infant under the age of twelve years, he shall be punished with death.

Rape on infant under 12 years.

§ 4. Whoever shall unlawfully and carnally know any white woman, against her will or consent, or by force, or whilst she is insensible, shall be guilty of rape, and shall be confined in the penitentiary from ten to twenty years.

Rape.

§ 5. Whoever shall carnally know a white girl under the age of ten years, or an idiot, shall be confined in the penitentiary not less than ten nor more than twenty years.

Carnally knowing white girl under 10 years, or an idiot.

§ 6. Whoever, being above the age of fourteen years, shall unlawfully take, without her consent, any unmarried white girl under the age of fourteen years out of the possession of her father, mother, or other person having the lawful custody and charge of her, against the will and consent of such person, shall be confined in the penitentiary from one to two years, or fined from one hundred to five hundred dollars, at the discretion of the jury.

Abducting unmarried white girl under 14 years.

§ 7. Whoever, being above the age of fourteen years,

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Taking away,
decoying, or de-
taining child un-
der 10 years.

shall unlawfully lead, or take away, or decoy, or entice away, or detain any child under the age of ten years, with intent to deprive the parent, or other person having the lawful care, charge, or possession of such child, or with intent to steal any article of value upon or about the person of such child, or shall, with any such intention, receive, conceal, or harbor such child, knowing it to have been so taken or enticed away, shall be confined in the penitentiary not less than one nor more than three years. But no person claiming in good faith to be the parent of such child, or to have the right to its possession, shall incur the penalty prescribed in this or the next preceding section.

Taking or de-
taining white
woman against
her will, with
intent to marry
or carnally
know.

§ 8. Whoever shall unlawfully take or detain any white woman against her will, with intent to marry such woman, or have her married to another, or with intent to have carnal knowledge with her himself, or that another shall have such knowledge, shall be confined in the penitentiary not less than two nor more than seven years.

Bigamy.

§ 9. Whoever being married, the first husband or wife as, the case may be, being alive, shall marry any person, shall be confined in the penitentiary not less than three nor more than nine years. Persons whose husband or wife shall have absented themselves, and continually remained beyond the seas, or in any state of the United States, not having been heard of for the period of five years preceding the last marriage, the one not knowing the other to be alive; persons who at the time of such marriage shall be lawfully divorced and permitted to marry, or whose former marriage hath been or hereafter may be declared void; and persons whose former marriage was had or made within the age of consent, are not embraced in this section.

First wife of
offender, to be
endowed upon
his conviction.

§ 10. If such offender be a man, his first wife shall, on his conviction, be endowed of one-third part of his real estate and slaves for life, and in fee of one-third part of his other estate, to be allotted and recovered as dower in other cases. And if the offender be a woman, she shall forfeit her claim to dower in her first husband's estate.

Sodomy or
buggery.

§ 11. Whoever shall be convicted of the crime of sodomy or buggery with man or beast, he shall be confined in the penitentiary not less than two nor more than five years.

Incest.

§ 12. Whoever shall commit adultery or fornication with, or carnally know his or her father, mother, child, sister, or brother, shall be guilty of felony, and confined in the penitentiary not less than two nor more than six years.

Destroying or
concealing birth
of bastard
child.

§ 13. If any woman, not being a slave, be delivered of any issue of her body, which being born alive would be a bastard, shall endeavor privately, by drowning or secretly burying the same, or in any other way, directly or indirectly, to conceal the birth thereof, so that it may not be

known whether it were born alive or not, she shall be confined in the penitentiary not less than two nor more than seven years.

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ARTICLE V.

Robbery and burglary.

§ 1. Every person guilty of robbery or burglary shall be confined in the penitentiary not less than three nor more than ten years.

Punishment.

§ 2. If any person, with an offensive weapon or instrument, shall unlawfully and maliciously assault, or shall by menace, or in or by any forcible and violent manner, demand any money, goods, or chattels, bond, bill, deed, or will, or other evidences of right, or any thing of value, of or from any other person, with a felonious intent to rob or commit robbery upon such person, he shall be confined in the penitentiary not less than one nor more than two years.

Assault, &c.,
with intent to
rob.

§ 3. Robbery or larceny of obligations, bonds, deeds, wills, bills obligatory or bills of exchange, promissory notes for the payment of money, lottery tickets, paper bills of credit, certificates of deposit of money with any bank or other person, or certificates or obligations granted by the authority of this commonwealth, that of the United States, or of any of them, or of account books or receipts, shall be felony, and punished in the same manner as robbery or larceny of goods and chattels.

Robbery or
larceny of
bonds, notes,
&c., &c., deem-
ed felony.

§ 4. If any person shall feloniously take any goods or chattels, or other thing of value out of or from any church, chapel, or meeting house, school house, court house, or other public building, with goods and chattels, or other thing belonging thereto, or shall rob any person in his dwelling house or place, or in any booth or tent in a fair or market, he, his wife, children, or servants, or other person then being within, or shall feloniously break any dwelling house or any part thereof, or any out house belonging to or used with any dwelling house, by day, and feloniously take away anything of value, although the owner or any person may not be there, he shall be confined in the penitentiary not less than one nor more than two years.

Larceny from
churches, school
houses, court
houses, dwell-
ing houses, &c.

ARTICLE VI.

Maiming, or other crimes against the person.

§ 1. If any person shall unlawfully pull or put out an eye, cut, or bite off, or slit the tongue, nose, ear, or lip, or any part thereof, or cut or bite off any other limb or member, by fighting or otherwise, of another person, except the same be done in self-defence, or in doing some lawful act, he shall be confined in the penitentiary not less than one nor more than five years.

Maiming, &c.

§ 2. If any person shall willfully and maliciously shoot

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Malicious
shooting or stab-
bing.

at and wound another, with an intention to kill him, so that he does not die thereby, with a gun or other instrument loaded with a leaden bullet, or other hard substance, or shall willfully and maliciously cut, strike, or stab another with a knife, sword, or other deadly weapon, with intention to kill, if the person so stabbed, cut, or bruised, die not thereby, or shall willfully and maliciously administer poison or attempt to poison or administer poison to another, if death do not ensue in consequence thereof, he shall be confined in the penitentiary not less than one nor more than five years.

Sending threat-
ening letters
with intent to
extort.

§ 3. If any person shall knowingly send any letter, with or without a name signed thereto, or with a fictitious name, threatening to kill another, or to do him or his wife or child harm, or to burn or destroy his house or other property, or to accuse him or his wife or child of a felony, with the intention to extort or gain money, goods, wares, or merchandise, or a deed, will, or other instrument of writing, from the person so threatened or from any other, he shall be confined in the penitentiary not less than one nor more than ten years.

Feloniously
breaking into
store houses,
&c.

§ 4. If any person shall feloniously, in the night or day, break any warehouse, storehouse, office, shop, or room in a steam, wharf, or other boat, whether such place be or be not a depository for goods, wares, or merchandise, and whether the goods, wares, and merchandise be or be not exposed for sale in such place, with intent to steal, or shall feloniously take therefrom or destroy any goods, wares, or merchandise, or other thing of value, whether the owner or other person be or not in such house, office, room, or shop, he shall be confined in the penitentiary not less than one nor more than seven years.

ARTICLE VII.

Arson and burning of buildings, &c.

Punishment of
arson.

§ 1. If any person shall be guilty of arson, he shall be confined in the penitentiary not less than five nor more than twelve years.

Burning pub-
lic buildings,
&c.

§ 2. If any person shall willfully burn any court house, county or public prison, or the office of any clerk of a court, or the capitol of the commonwealth, or any office therein, or upon the capitol or public grounds, or any surveyor's office, or other public office within this state, or the office or depot of any railroad or canal company, he shall be confined in the penitentiary not less than seven nor more than twenty-one years.

Burning ware-
houses, church-
es, stacks, bridg-
es, mills, &c.,
&c.

§ 3. If any person shall willfully and unlawfully burn a tobaccohouse, warehouse, storehouse, or any house or place where wheat, corn, or other grain, grass, fodder, hemp, or hay is usually kept; any stable or outhouse, or any church or meeting house, or any other house whatever, or any

stack or shock of hay, fodder, flax, hemp, pile of lumber, plank, cord-wood, tan-bark, wheat, or other grain, or any bridge or causeway upon a street, public highway, railroad, turnpike road, plank road, or canal, or steam saw or grist mill, water grist or saw mill, steamboat or other water craft or vessel, he shall be confined in the penitentiary not less than one nor more than six years.

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§ 4. If any person shall willfully, maliciously, and unlawfully attempt to commit any of the offenses described in the three preceding sections, by trying to set fire to or ignite the same, or any materials therein, though the same or part thereof be not fired or burned, he shall be confined in the penitentiary not less than three months nor more than six years.

Attempting to commit such offenses.

§ 5. If any person shall willfully and maliciously burn the penitentiary house, he shall be punished with death.

Burning penitentiary.

If any one so attempt to burn the same, by the means and in the manner described in the fourth section of this article, he shall be confined in the penitentiary not less than one nor more than six years.

ARTICLE VIII.

Perjury.

§ 1. Every person guilty of perjury shall be punished by confinement in the penitentiary of not less than two nor more than six years, unless in those cases where a different punishment is prescribed by law.

Punishment of perjury.

§ 2. If any person, in any matter which is or may be judicially pending, or on any subject in which he can legally be sworn, or on which he is required to be sworn, when sworn by a person authorized by law to administer an oath, shall willfully and knowingly swear, depose, or give in evidence, that which is untrue and false, he shall be confined in the penitentiary not less than two nor more than six years.

False evidence.

§ 3. If any person shall unlawfully and corruptly procure another, by any means whatever, to commit any of the offenses described in the two preceding sections, he shall be guilty of subornation of perjury, and confined in the penitentiary not less than two nor more than six years.

Bribing juror.

§ 4. If any person be convicted of either of the offenses described in the next three preceding sections, he shall ever afterwards be disqualified from giving evidence in any judicial proceeding, or from being a witness in any case whatever.

Subornation of perjury.

§ 5. If any person shall procure any juror to take gain or profit for rendering his verdict, or refusing to render his verdict, he shall be confined in the penitentiary not less than one nor more than six years.

Disqualification.

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ARTICLE IX.

Forgery and counterfeiting.

Punishment
for counterfeit-
ing coin.

§ 1. If any person shall forge or counterfeit any gold or silver coin which is, or hereafter shall be, passing as current in this state, or shall knowingly and falsely utter, pay or tender in payment, any such counterfeit and forged coin, he shall be confined in the penitentiary not less than five nor more than fifteen years.

Counterfeiting
or altering audi-
tor's warrant,
treasurer's
check, state
bond, &c., &c.

§ 2. If any person shall forge, counterfeit, or alter the warrant of the public auditor, check of the treasurer of the state, or certificate of either, or any other public security, or state bond, or coupon of interest thereon, with intent to defraud the commonwealth or any person; or if he shall be concerned in printing, writing, signing, uttering, or passing any such forged and counterfeit papers as above described, knowing the same to be forged and counterfeited, he shall be confined in the penitentiary not less than two nor more than five years.

Counterfeiting
inspector's re-
ceipt, altering or
using the same.

§ 3. If any person shall forge, counterfeit, alter, or erase the receipt or certificate of an inspector; or if he shall utter, tender in payment, or pass such receipt or certificate, knowing the same to be forged, counterfeited, altered, or erased, or shall have in his possession such receipt or certificate, knowing the same to be forged and counterfeited, for the period of five days, without giving notice thereof to a justice of the peace; or if he shall knowingly export or ship any hogshead of tobacco, flour, or other commodity, with a forged and counterfeit stamp, receipt, or certificate; or shall receive or demand tobacco, flour, or other commodity, of an inspector or other person, knowing the stamp or certificate to be counterfeit and forged; or shall fraudulently draw or take out of a stave, plank, or heading board of any hogshead, cask, or other vessel so stamped, after the same shall have been delivered out of any public warehouse, he shall be confined in the penitentiary not less than one nor more than six years.

Inspector is-
suing false re-
ceipt.

§ 4. If an inspector shall fraudulently issue to any person his receipt for any hogshead or cask of tobacco, flour, or other commodity, which he has not actually received in the warehouse whereof he is an inspector at the time, or shall fraudulently issue more than one receipt for the same article by him received, except when authorized by law so to do, he shall be confined in the penitentiary not less than one nor more than seven years.

Forgery of
deeds, wills,
bonds, notes,
&c.

§ 5. If any person shall forge or counterfeit any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or other thing, or any indorsement or assignment of a bond, writing obligatory, bill of exchange, or promissory note for the payment of money or other thing, or any acquittance or receipt for money, or property, or other thing, with inten-

tion to defraud another; or shall knowingly utter or publish as true any such instrument as above described; or shall fraudulently forge, counterfeit, or utter any commission, patent, pardon, or public record, or an attested copy thereof, of any judicial, executive, or legislative officer, or utter as true any of the before described papers, knowing them to be forged, counterfeit, or altered, shall be confined in the penitentiary not less than two nor more than ten years.

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Of commissions, patents, pardons, &c.

§ 6. If any person shall fraudulently make or counterfeit any instrument, stamping an impression in the figure or likeness of the seal officially used by the commonwealth of Kentucky, or of the United States, or any of the states, or any officer of this state, the United States, or any of the states, or of any court or officer thereof, or of any corporation or officer thereof, or if he have in his possession any such instrument, and conceal the same, knowing it to be falsely made and counterfeited, or use the false impression made by such instrument, and utter and publish it as true, knowing it to be falsely made and counterfeited, he shall be confined in the penitentiary not less than five nor more than fifteen years.

Counterfeiting seal of the commonwealth, &c.

§ 7. If any person shall forge or counterfeit any writing whatever, whereby fraudulently to obtain the possession of or to deprive another of any money or property, or cause him to be injured in his estate or lawful rights, or if he shall utter and publish such instrument, knowing it to be forged and counterfeited, he shall be confined in the penitentiary not less than two nor more than ten years.

Forgery of any writing whatever.

§ 8. If any person shall write for and knowingly deliver, or cause to be delivered, to a slave not his own, or under his lawful control, a pass to go from one place to another, and shall affix the name of any one, or a fictitious name thereto, without the consent, express or implied, of the owner or person having the control, he shall be guilty of forgery, and confined in the penitentiary not less than one nor more than five years.

Giving pass to a slave without owners consent.

ARTICLE X.

Bank notes, bank paper, &c.

§ 1. If any person shall forge or counterfeit a bank bill, or note, or check, or draft, upon a bank, or the certificate of deposit of money therein, of any bank or company incorporated by law, in any part of the United States, or any indorsement thereon; or shall erase or alter the same, or any indorsement thereon; or shall tender in payment, utter, vend, exchange, barter, or demand to have exchanged for money, any such forged, erased, altered, or counterfeited bill, note, draft, check, or certificate of deposit, or the indorsement thereon, knowing the same to be forged, counterfeited, erased, or altered, he shall be confined in the penitentiary not less than two nor more than ten years.

Counterfeiting bank notes, &c.

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Having coun-
terfeit plate in
possession.

§ 2. If any person shall have or keep in his possession any counterfeit bank note, or counterfeit gold or silver coin, knowing the same to be forged and counterfeited, with the intention of circulating the same, he shall be confined in the penitentiary not less than two nor more than ten years.

Having in pos-
session notes on
banks not in ex-
istence.

§ 3. If any person shall have or keep in his possession promissory notes, purporting to be bank notes on any bank not in existence, or of any unauthorized association of persons for banking, knowing the notes to be such, with the intention of fraudulently circulating the same, or to pass, or offer to pass or circulate the same, he shall be confined in the penitentiary not less than two nor more than ten years.

Making, &c.,
machine, press,
die, &c., for
counterfeiting.

§ 4. Whoever shall knowingly make or mend, or proceed to make or mend, or buy or sell, or have in his possession or control, any machine, press, die, tool, plate, or stamp, or other instrument or thing used or intended to be used in counterfeiting, shall be confined in the penitentiary not less than one nor more than four years.

And all such machinery, plates, stamps, die, tools, or other instrument, shall be seized, and may be used on the trial as evidence, and then defaced and destroyed by order of court.

ARTICLE XI.

Larceny.

§ 1. Persons guilty of larceny of goods and chattels of the value of four dollars or more, shall be punished by a confinement in the penitentiary of not less than one nor more than five years; and persons guilty of larceny of goods and chattels of less value than four dollars, shall be punished by stripes not exceeding thirty-nine, unless in those cases in which the punishment is specifically prescribed in this chapter.

Selling or stealing a free person as a slave.

§ 2. If any person shall steal and hold, or sell fraudulently, or offer to sell, a free person as a slave, knowing the person so sold or stolen to be free, he shall be confined in the penitentiary not less than five nor more than ten years.

Horse stealing.

§ 3. If any person shall steal a horse, mule, jack, or jennet, he shall be confined in the penitentiary not less than four nor more than eight years.

Hog stealing.

§ 4. If any person shall steal a hog, of the value of four dollars or more, he shall be confined in the penitentiary not less than two nor more than four years.

Larceny of the
value of \$4.

§ 5. If any person shall steal money, goods, or chattels, of the value of four dollars or upwards, either from the per-

son or possession of any one, or from his house, without violence or putting in fear, he shall be confined in the penitentiary not less than two nor more than four years.

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§ 6. If the money, goods, and chattels stolen, as described in the preceding section, be under the value of four dollars, the offender, if a male, shall be punished by any number of stripes, not exceeding thirty-nine, on his bare back; if a female, she shall be imprisoned not exceeding ten days. A male convicted of larceny under this section shall pay the costs of prosecution, and shall be committed to jail until they are paid. After he has remained in jail ten days, and the judge is satisfied that the costs cannot be coerced, the convict shall be discharged.

Under value of \$4.

§ 7. If any person shall fraudulently steal, destroy, or withdraw the record, or any part thereof, of any judicial proceeding pending or decided, he shall be confined in the penitentiary not less than two nor more than ten years.

Stealing or destroying records.

§ 8. If any person shall willfully and fraudulently make a hole in any steamboat or other vessel or water craft in distress, or shall steal or destroy a pump, or other materials or goods belonging to such boat, vessel, or craft; or shall destroy or willfully do any thing tending to the immediate destruction of a steamboat, vessel, or other water craft, though the same be not in distress, whereby human life is endangered, he shall be confined in the penitentiary not less than one nor more than seven years.

Injuries to boats, &c.

§ 9. Whoever shall receive any stolen goods, chattels, or other thing, the stealing whereof is punished as a felony or misdemeanor, knowing the same to be stolen, shall be confined in the penitentiary not less than one nor more than six years. Such offenders may be convicted though the principal offender has not been convicted.

Receiving stolen goods.

§ 10. If any person shall steal a land warrant or other authority issued by the register of the land office or other person having authority to make such warrant or authority, whereby waste and unappropriated land may be surveyed; or if he forge, erase, or alter the same when rightfully issued, or utter and publish the same, knowing it to be forged, erased, stolen, or altered, he shall be confined in the penitentiary not less than two nor more than ten years.

Stealing land warrant, &c.

ARTICLE XII.

Embezzlement.

§ 1. If any director, or officer, or servant, of any incorporated bank, or any officer of public trust in this state, or any officer, agent, clerk, or servant of any incorporated company, embezzle or fraudulently convert to his own use, bullion, money, bank notes or other security for money, or evidences of debt or claim, or any effects or property of another person which shall have come to his possession or been placed under his care or management as such officer,

By officers of banks, companies, &c.

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he shall be confined in the penitentiary not less than one nor more than ten years.

By carriers,
&c.

§ 2. If any carrier, porter, or other person to whom money or other property or thing which may be the subject of larceny, may be delivered, to be carried for hire, or any other person who may be entrusted with such property, embezzle or fraudulently convert to his own use, or secrete with intent to do so, any such property, either in mass or otherwise, before delivery thereof at the place or to the person to whom the same were to be delivered, he shall be confined in the penitentiary not less than one nor more than five years.

Making false
entries by clerks
of bank, &c.

§ 3. If any clerk or officer of any bank or joint stock company, make or alter or omit to make any entry in any account book kept by him in such bank or by such company, with intention to conceal the true state of such account, or to defraud the bank or company, or any individual, or to enable or assist any person to obtain money to which he was not entitled, he shall be confined in the penitentiary not less than two nor more than ten years.

Frauds by mas-
ter of boat in re-
gard to inspec-
tion, &c.

§ 4. If the master or manager of a boat or other vessel shall fraudulently land and put on shore any hogshead, cask, or package of tobacco or flour, put on board of such boat or vessel to be carried to any public warehouse or other place appointed by law for the inspection of tobacco or flour, or shall fraudulently put the same on board some other vessel, so that the same be not delivered at the point to which it was shipped, or shall fraudulently open any hogshead, cask, or package of tobacco or flour, before the same has been received by the inspector, he shall be confined in the penitentiary not less than one nor more than five years.

ARTICLE XIII.

Destroying a will—obtaining money, &c., by false pretenses.

Fraudulently
destroying or
concealing will.

§ 1. If any person fraudulently destroy or conceal a will or codicil, with intent to prevent the probate thereof, he shall be confined in the penitentiary not less than two nor more than five years.

Obtaining
money, &c., by
false pretenses.

§ 2. If any person, by any false pretense or token, with intention to commit a fraud, obtain from another money, property, or other thing which may be the subject of larceny, or if he obtain by any false pretense or token, with like intention, the signature of another to a writing, the false making whereof would be forgery, he shall be confined in the penitentiary not less than one nor more than five years.

False person-
ation.

§ 3. Every person who shall falsely and fraudulently represent or personate another, and in such assumed character shall

1. Marry another.

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2. Become bail or surety for any party in any proceeding, civil or criminal, before any court or officer authorized to take such bail or surety.

3. Confess any judgment.

4. Acknowledge the execution of any conveyance of real estate, or of any other instrument which by law may be recorded, or,

5. Do any other act in the course of any suit, proceeding, or prosecution, whereby the person so personated or represented purports to be made liable, in any event, to the payment of any debt, damages, costs, or sum of money, or his rights or interests may in any manner be affected, shall, on conviction, be punished by confinement in the penitentiary for a term not less than one nor more than five years.

§ 4. No indictment for the offense described in the first subdivision of the preceding section, shall be found, unless upon complaint of the injured party, and within two years after the perpetration of the offense.

§ 5. Every person who shall falsely and fraudulently represent or personate another, and in such assumed character shall deceitfully receive any money or valuable property of any description, intended to be delivered to the individual so personated, with purpose to appropriate the same to his own use, shall, upon conviction, be confined in the penitentiary not less than one nor more than four years.

Marrying under false personation; when punished.

Receiving money, &c., under false personation.

ARTICLE XIV.

Destroying and obstructing public works and corner trees.

§ 1. If any person shall unlawfully and maliciously blow up or attempt to blow up, with gunpowder or other material, any of the locks of the Louisville and Portland canal, or any of the works of a railroad company, turnpike, or plank road company, or any of the locks and dams now built, or which hereafter may be built by the commonwealth upon any water course; or shall, by any other means, willfully and maliciously destroy or injure any of the locks or dams or works aforesaid, or any bridge over the same, or other public bridge, with intent to impede or injure the navigation or the travel thereon, or the use of any bridge across such canal or lock, or other water-course, he shall be confined in the penitentiary not less than two nor more than four years.

Maliciously injuring or attempting to injure public works.

§ 2. If any person shall fraudulently and willfully remove, deface, cut down, or destroy a corner tree or corner stone, to the survey of any tract of land, he shall be confined in the penitentiary not less than four nor more than eight years.

Defacing, &c., corner trees, corner stones, &c.

§ 3. If any person shall willfully and maliciously stop the passage of salt water conducted through pipes or troughs from a salt well or spring to a cistern or furnace where salt is made, or wrongfully fill up a salt well or spring, or pump

Malicious injuries, &c., to salt pipes, springs, &c.

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Obstructing or
tearing up rail-
road.

used in either, so as to stop the use and benefit of said well, spring, or pump, he shall be confined in the penitentiary not less than one nor more than three years.

§ 4. If any person shall willfully and maliciously place an obstruction by stones, logs, sticks, or any other thing, on the track of a railroad, or shall tear up or remove any part or portion of a railroad, or the works thereof, with intent to obstruct the passage of cars thereon, or to throw them off the track, he shall be confined in the penitentiary not less than one nor more than ten years.

Injuring, &c.,
telegraph lines,
&c.

§ 5. If any person shall willfully and maliciously injure, obstruct, or destroy a telegraph line, post, or pier, or the materials or property belonging to or attached to a telegraph, he shall be confined in the penitentiary not less than two nor more than ten years.

Telegraph
agent know-
ingly transmitting
false intelli-
gence, or cor-
ruptly refusing
to transmit dis-
patches.

§ 6. If any agent, officer, or manager of a telegraph line constructed in this state, or other person, shall knowingly transmit, on or through the same, any false communication or intelligence, with intention to injure any one, or to speculate on any article of merchandise, commerce, or trade, or with intent that another may do so; or if any agent, officer, or manager of a telegraph line, from corrupt or improper motives or willful negligence, shall withhold the transmission of messages or intelligence for which the customary charges have been paid or tendered, he shall be fined not less than ten nor more than five hundred dollars.

ARTICLE XV.

Offenses by convicts, &c.

Escapes from
penitentiary.

§ 1. If a person convicted and confined in the penitentiary by the judgment of a court shall escape therefrom, or being out under guard shall escape from custody, he shall be punished by a further confinement in the penitentiary of not less than two nor more than six years, to commence after he shall have served out the time for which he was first convicted.

§ 2. The Franklin circuit court shall have jurisdiction of the offense in the preceding section mentioned.

Warrant to be
issued by keeper
and inspector.

§ 3. When a convict shall escape from the penitentiary, the keeper and one of the inspectors shall issue their warrant, directed to all sheriffs, constables, and marshals in the state, and to all persons, authorizing and requiring them to retake and convey such convict to the penitentiary. The person recapturing and conveying back to the penitentiary any convict, shall be paid, out of the funds of the penitentiary, by the keeper, a reward of one hundred dollars, and all reasonable expenses. The keeper and one of the inspectors may employ persons to go in pursuit of the convict, and pay them, out of the funds of the penitentiary, a reasonable compensation for their services.

Reward for
re-capturing,

Persons may
be employed for
pursuit.

§ 4. If a sheriff or other officer shall refuse or willfully neglect to obey such warrant of the keeper and inspector, he shall be guilty of a misdemeanor, and, on conviction, fined not less than ten nor more than one hundred dollars.

1852.

Sheriff or other officer refusing to obey warrant.

§ 5. If any person shall, by violence or threats of violence, oppose an officer or other person in the attempt to recapture such fugitive from the penitentiary, or if any person shall rescue or attempt to rescue such fugitive after he is retaken, from the person having him in custody, he shall be confined in the penitentiary not less than one nor more than four years.

Penalty for opposing recapture.

§ 6. The convict, after he is retaken, shall remain in the penitentiary until the time of his trial for the escape, without an examining court and without bail. The acquittal of the convict upon an indictment for the offense of escape from the penitentiary shall not affect the original sentence.

No examining court.

§ 7. If any person shall comfort, harbor, or conceal any fugitive from the penitentiary, knowing him to be such, except the husband or wife of the fugitive, he shall be guilty of a misdemeanor, and fined in a sum not less than thirty nor more than two hundred dollars.

Fine for concealing fugitive, &c.

ARTICLE XVI.

Escape and rescue of prisoners charged with crime.

§ 1. If a jailer, or other officer, or a guard, voluntarily suffer a prisoner in his charge or custody, convicted of or charged with felony, to escape, he shall be confined in the penitentiary not less than one nor more than five years.

Voluntarily suffering an escape.

§ 2. If any of the persons named in the preceding section negligently suffer a person convicted of or charged with felony, or voluntarily or negligently suffer a person convicted of or charged with an offense not a felony, to escape from his custody, or willfully refuse to receive any one lawfully ordered into his custody, he shall be confined in jail not more than six months, or be fined not less than one hundred and not exceeding four hundred dollars.

Negligently suffering an escape.

§ 3. If a person confined in a jail on conviction of a felony, the punishment of which is confinement in the penitentiary, shall escape therefrom, he shall for such escape be confined in the penitentiary one year. If a prisoner be confined on sentence of imprisonment, or to be whipped, or under a capias, escapes from jail, he shall be confined in jail for such escape six months.

Escape from jail.

§ 4. If a person lawfully arrested upon a charge for a violation of the criminal or penal laws, forcibly or by bribery, effects his escape from the officer or guard, he shall be confined in jail not less than six nor than twelve months.

Escape from arrest.

1852.

Aiding escape,
rescue, &c.

§ 5. When a person is lawfully detained as a prisoner in any jail, or in custody, if any person shall convey any thing into the jail or county prison, with intent to facilitate the prisoner's escape therefrom, or shall aid him in any way to escape, or in the attempt to escape from such jail or custody, or shall forcibly rescue or attempt to rescue him therefrom, if such rescue or escape be effected, he shall, if the prisoner was detained on a conviction or on a charge of felony, be confined in the penitentiary not less than one nor more than five years; and if the escape be not effected, or if the prisoner was not detained on such conviction or charge, he shall be confined in jail six months and fined not exceeding five hundred dollars.

§ 6. If any person unlawfully and by force arrest, or attempt to arrest, a prisoner from the presence of any judicial tribunal of original or final jurisdiction, while his trial is progressing, or after his conviction, or from the officer or guard of such tribunal having him in custody, he shall be confined in the penitentiary not less than one nor more than five years.

ARTICLE XVII.

*Penal offenses and punishments.*Shooting or
stabbing in sud-
den affray.

§ 1. If any person shall, in a sudden affray, or in sudden heat and passion, without previous malice, and not in self-defence, shoot and wound another person with a gun or other instrument, loaded with ball or other hard substance, without killing such person; or shall, in like manner, cut, thrust, or stab any other person with a knife, dirk, sword, or other deadly weapon, without killing such person, he shall be guilty of a misdemeanor, and fined not less than fifty nor more than five hundred dollars, and imprisoned not less than six months nor more than one year.

Shooting at,
without wound-
ing.

If any person unlawfully shoot at another, with intent to kill or wound such person, without inflicting a wound, he shall be fined not exceeding five hundred dollars, and imprisoned not less than six nor more than twelve months.

Disturbing re-
ligious worship.

§ 2. If any person shall willfully and maliciously interrupt or disturb a congregation assembled on or at any place, of and for religious worship, or misuse or maltreat any person being there, he shall be fined in a sum not less than ten nor more than fifty dollars, or imprisoned not less than five nor more than twenty days, or both so fined and imprisoned, at the discretion of the jury.

How offender
may be arrested.

§ 3. A justice of the peace, or any officer who is by virtue of his office a conservator of the peace, having knowledge of such offense, or being informed thereof by affidavit, as is prescribed in the next preceding section, may come with the sheriff or other officer, and call to his aid the power of the county if need be, and arrest the offender, put him under restraint, or may issue his warrant to an officer for that purpose.

§ 4. The person offending, when arrested, shall be kept in custody, unless he will give bond to the commonwealth in the penalty of one hundred dollars, with good surety, that he will appear at a time and place to be fixed by the officer taking such recognizance, and not depart until discharged by due course of law. On failure to give such bond, the person arrested shall be committed to jail for safe-keeping, until the day fixed by the justice for trial. The justice shall fix the day and place of trial, within the county, not beyond ten days from the day of arrest.

1852.
To be committed in default of bail.

§ 5. The justice who shall try the offender shall, if required by the party, cause a jury to be impaneled as often as need be to try the case, and ascertain the penalty and punishment within the limits prescribed herein; and if the defendant be found guilty, enforce the judgment by such process or order as may be necessary. If the accused do not demand a jury, the justice of the peace shall hear and decide the case.

How offender to be tried.

§ 6. If a justice of the peace, or sheriff, or other officer, having knowledge or information of the commission of the offense described in the second section of this article, shall willfully neglect and fail to execute the duties required of them respectively by the provisions of this article, they shall severally be fined the sum of one hundred dollars for each offense.

Penalty on officer failing in duty.

§ 7. No officer, for any civil cause, shall arrest any minister of religion or priest whilst he is publicly preaching or performing religious worship in any religious assembly. An officer making or attempting to make such arrest shall be fined not less than ten nor more than fifty dollars.

Minister not to be arrested during service.

§ 8. If any person, in any stage play, interlude, show, or exhibition, or in any public or professional speech or lecture, jestingly or profanely curse or swear, he shall be fined, for each offense, five dollars.

Profane cursing in play, show, speech, &c.

§ 9. If any person shall profanely curse or swear, or shall be drunk, he shall be fined five shillings for each offense; and every oath shall be deemed a separate offense. If either of the offenses in this section be committed in the presence of a justice of the peace, or of any court of record, the justice of the peace or such court may, instantler, without further proof, inflict the penalty imposed by law.

Profane swearing and drunkenness.

§ 10. Every white person who shall commit adultery or fornication shall, for every offense of adultery, be fined twenty dollars, and for that of fornication, ten dollars.

Adultery and fornication.

§ 11. No work or business shall be done or performed on the sabbath day, unless the ordinary household offices of daily necessity, or other work of necessity or charity. If any person on the sabbath day shall himself be found at his own or any other trade or calling, or shall employ his apprentices, servants, or slaves, or other person, bond or free, in labor or other business, whether the same be for

Observance of sabbath.

1852.

profit or amusement, unless such as is permitted above, he shall be fined two dollars for each offense. Every person, bond or free, servant or apprentice, so employed, shall be deemed a separate offense. Persons who are members of any religious society, who observe as a sabbath any other day in the week than Sunday or the christian sabbath, shall not be liable to the penalty prescribed in this section, if they observe as a sabbath one day in each seven, as herein provided.

Altering or de-
facing brands of
horses, &c.

§ 12. If any person shall knowingly and fraudulently alter or deface the marks or brands on any horse, neat cattle, sheep, hog, or goat, he shall be fined in a sum not exceeding two hundred dollars, and imprisoned not exceeding six months.

Driving sheep
not branded or
marked.

§ 13. If any person shall drive sheep for a distance of more than eight miles along a public highway, without having each sheep visibly branded or marked by tar or paint, with one or more letters or cross marks, he shall be fined not less than two nor more than ten dollars for each sheep so driven whilst unmarked.

Burial of per-
sons dying on
steamboats, &c.

§ 14. If any person shall die on board of any steamboat or other water craft, within this state, the master or other officer in command shall cause the dead body to be buried on shore, at least four feet deep; and for a violation of this section, such master or other officer shall be fined not less than two hundred dollars, and the vessel shall be liable to the payment of the fine imposed.

Disintering
bodies.

§ 15. Whoever shall unlawfully or secretly disinter or displace any dead human body from the grave or vault in which it has been deposited, shall be fined not more than five hundred dollars, and imprisoned not exceeding six months, or both, at the discretion of the jury.

Exhibiting,
&c., stud horses,
&c., in sight
of place of wor-
ship.

§ 16. If any person shall exhibit or show, by riding or leading, a stud horse, or jack, or bull, or use him in covering, within view or hearing of any place of public religious worship, during the time that an assemblage of persons, bond or free, are engaged in such worship, or assembled for that purpose, or dispersing therefrom, he shall be fined not less than ten nor more than fifty dollars.

Selling poi-
sonous drugs.

§ 17. If any person shall sell to or deliver to any white person, under the age of fifteen years, or to any slave or free person of color, any poisonous drug or medicine, without the written consent of the parent or guardian of such minor, or the master or person in law having lawful possession of such slave, he shall be fined one hundred dollars.

Commanders
of steamboat
fraudulently
taking wood.

§ 18. If the commander of a steamboat shall fraudulently take wood from a woodyard or woodboat, in this state, without the consent of the owner thereof, and without making or intending to make compensation therefor, he shall be fined one hundred dollars.

§ 19. If any person, when legally summoned by a sheriff or other officer to assist him in the execution of his office, shall refuse to do so, he shall be fined fifteen dollars, unless he can give a good reason for such refusal or failure.

1852.

Refusing when summoned by sheriff, &c., to assist.

§ 20. If any person shall sell or purchase within this state, or remove from the limits thereof, any negro who may be entitled to his freedom after the expiration of a time then to come, knowing such negro to be thus entitled to his freedom, without first obtaining the consent of the county or circuit court of that county in which he has resided for the last preceding year, permitting such sale or removal out of the state, he shall be fined not less than one nor more than five hundred dollars, and imprisoned not less than six nor more than twelve months—one half of the fine to be paid to the informer and prosecutor. The offender may be indicted without a prosecutor; in which case, one-third of the fine shall be paid to the commonwealth's attorney.

Selling, purchasing or removing from state negro entitled to freedom in future, without consent of court.

§ 21. The order of court, to authorize the sale or removal, shall state the name, age, and sex of the negro, and when he is to be set at liberty, and a certified copy under the seal of the court shall be given to the negro, at the time of the sale or removal.

What order authorizing shall state.

§ 22. If any persons shall conspire, confederate, or bind themselves, by oath, covenant, or agreement, maliciously and falsely to aid one another to carry on or institute any prosecution in the name of the commonwealth, against any other person, they shall be fined not exceeding one hundred dollars or imprisoned not exceeding twelve months.

Conspiring to prosecute.

§ 23. If a butcher or other person shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or shall sell the flesh as of one animal, knowing it to be that of another species; or if a baker, brewer, distiller, or other person knowingly sell unwholesome bread or drink, he shall be fined not less than one nor more than fifty dollars.

Selling unwholesome provisions.

§ 24. If any person fraudulently adulterate, for the purpose of sale, any thing intended for food or drink, or any drug or medicine, with any substance injurious to health, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars: and the adulterated articles, by order of the court, shall be destroyed.

Adulterating food, drink, or medicine.

§ 25. If any person unnecessarily and cruelly beat or torture any horse or other beast, whether his own or that of another, he shall be fined not exceeding fifty dollars.

Cruelty to beasts.

ARTICLE XVIII.

Riots, routs, and breaches of the peace.

§ 1. If a riot, rout, unlawful assembly, affray, or breach of the peace, be made or committed, the same may be sup-

By whom suppressed and offender arrested.

1852.

Officer may
call power of
county.

Offenders to
be committed in
default of bail.

Warrant may
be issued on
complaint with-
in 60 days.

Jury to be
summoned.

Punishment.

Costs when
defendants ac-
quitted.

Imprisonment
in default of
payment of fine.

pressed, and the persons guilty arrested by any judge of the circuit or county court, police judge, or justice of the peace, sheriff, marshal, or constable.

1. They shall have power to call to their aid the power of the county, if need be, and proceed to arrest the persons guilty of either of the offenses aforesaid, and commit them to jail, there to remain until the time fixed by the officer ordering the arrest for the trial of the offenders, which shall not exceed five days from the day of arrest, unless the persons arrested shall severally enter into bond, with good surety, in a sufficient penalty, conditioned that they will be of good behavior, keep the peace, and personally appear on the day and at the place fixed for their trial, and answer to the charge, and not depart without leave. When the arrest is made by a sheriff, marshal, or constable, the offenders shall be taken before a justice of the peace, or some other judicial officer, whose duty it shall be to recognize the offender, with good security, as above.

2. Any of the judicial officers aforesaid, upon complaint on oath that any of the offenses above has been committed, shall issue his warrant, directed to the sheriff or other officer, commanding him to arrest the persons charged, and commit them to jail, unless they will give bond with surety, in a penalty to be stated in said warrant by the officer issuing the same, conditioned as above.

But no warrant shall be issued in such case, unless the complaint is made within sixty days after the offense has been committed.

3. The sheriff, or other officer, shall summon a jury of twelve sober, discreet housekeepers, to attend at the time and place fixed for the trial of the offenders, who shall be sworn to try the case. If any, so summoned, shall fail to attend, or be objected to or excused, others shall be summoned in their stead. The justice or judge shall preside at the trial, and decide all questions of law arising in the case, and preserve order.

4. Upon hearing of the evidence, if the jury believe the defendants, or any one or more of them, guilty, they shall be severally fined in a sum not exceeding thirty dollars, or imprisoned not exceeding fifteen days, or both so fined and imprisoned, at the discretion of jury. The persons convicted shall pay the costs of the prosecution.

5. If the prosecution is commenced by or at the instance of an officer, he shall not be liable to pay costs if the defendant is acquitted. If it be commenced at the instance of any other, such person shall be liable to costs. If the finding of the jury shall be for a pecuniary penalty alone, unless the same be paid, the defendant shall be committed to jail by the officer presiding at the trial, and confined for a term of days, which, at the rate of two dollars per day, will satisfy the whole fine imposed.

6. Nothing in this article shall be construed to repeal the common law in relation to riots, routs, affrays, unlawful assemblies, or breaches of the peace; which offenses may be punished as and by the common law as heretofore.

1852.
Common law
in regard to
riots, &c., not
repealed.

ARTICLE XIX.

Duelling.

§ 1. Whoever shall challenge another to fight in single combat or otherwise, with any deadly weapon, in or out of this state, shall be imprisoned from three to twelve months, or fined five hundred dollars, or both.

Challenging.

§ 2. Whoever shall accept any such challenge, shall be imprisoned from one to six months, or fined two hundred and fifty dollars, or both.

Accepting chal-
lenge.

§ 3. Whoever shall knowingly carry or deliver any such challenge, or consent to be a second to either party in any such duel, shall be imprisoned from ten to thirty days, or fined one hundred and fifty dollars, or both.

Carrying chal-
lenge or consent-
ing to be second.

§ 4. Any person convicted of either of the offenses named in the three previous sections, shall forfeit any office he may then hold, and be excluded and held disqualified from receiving and holding any office, and also from exercising the right of suffrage within this commonwealth, for seven years after the date of his conviction.

Penalties.

ARTICLE XX.

Racing on the highway, &c.

§ 1. If any person shall induce or accept of any minor or slave, apprentice or servant, without the assent of the natural or statutory guardian of such minor, or the assent of the owner of such slave, or master of such servant or apprentice, to ride in a race, or to practice any horse to run, or to break any horse to ride or work, he shall for each offense pay the sum of one hundred dollars, to be paid to the guardian, owner, or master, as the case may be, to be recovered by suit in any court having jurisdiction; and shall also be liable, in the same suit, for such other damages as the plaintiff may have sustained.

Inducing or
accepting slaves
or minors to
ride in races, &c.

§ 2. If any person shall be engaged, directly or indirectly, in running a horse, by way of practicing him, or in running a horse race, on a public highway, or on the street of any town or city, he shall be fined ten dollars for each offense.

Racing horse
on highway or
in street.

ARTICLE XXI.

Lotteries.

§ 1. Whoever shall set up, draw, manage, or otherwise promote any lottery for money or other thing, or dispose of, or promote the disposing of, any money or thing of value by way of lottery, or aid in the doing of either of said offenses, shall be fined from one hundred to ten thousand dollars.

Fine for set-
ting up, manag-
ing, &c.

1852.

For printing,
vending, &c.,
tickets.

§ 2. Whoever shall write, print, vend, or have in possession, with intent, for himself or another, to sell or offer to sell, negotiate, exchange, or dispose of any ticket, share of a ticket, or any writing, certificate, token or device, purporting or intended to entitle the holder, bearer, or any other person, to any prize, or any share of or interest in any prize, to be drawn in any lottery, in or out of this state, shall be fined for every such offense from one hundred to one thousand dollars.

Permitting
houses to be oc-
cupied for lotte-
ry.

§ 3. Whoever shall knowingly permit, in any house, shop or other building occupied or controlled by him, the setting up, managing or drawing of any lottery, or the sale or exchange of any lottery ticket or other thing mentioned in the preceding section, shall incur a like penalty as therein named.

Advertising
lotteries, &c.

§ 4. Whoever shall advertise or give public notice of any lottery, ticket, or other thing, in the last two sections, being for sale or exchange, or set up or exhibit any sign, symbol, or other representation of a lottery, or the drawing of a lottery, indicating where the same may be bought or obtained, in this state, shall incur the like penalty as in those sections named.

Penalties ap-
ply to fictitious
lotteries.

§ 5. The penalties of the three preceding sections shall apply as well where the lottery is merely pretended and fictitious, as to the cases where the lottery is real.

All lottery
rights to deter-
mine within 3
years.

§ 6. Three years after this chapter takes effect, all rights and privileges which may have been granted by the legislature of this commonwealth to raise money by lottery for any purpose shall cease and determine.

ARTICLE XXII.

Actions popular, or suits for penalty.

To be com-
menced in coun-
ty, &c., where
offense commit-
ted.

§ 1. All prosecutions for crimes or penalties, and all suits for penalties, shall be commenced in the court having jurisdiction of the same, of that county, town, or city in which the crime was committed or the penalty incurred.

Person first
suing in good
faith entitled to
penalty.

§ 2. The person who first, in good faith, shall sue for and recover judgment, shall be entitled to the penalty incurred by the defendant, in all cases where a part or the whole of the fine or forfeiture is given by law to the person suing; and no suit or judgment had or contrived, whereby to screen the offender from a penalty, or prevent a suit in good faith by another person for the same, shall be available against a prosecution carried on in good faith, and without collusion with the defendant.

Common-
wealth's attor-
ney not to re-
ceive money,
&c., on agree-
ment not to
prosecute.

§ 3. It shall not be lawful for any commonwealth's attorney, or attorney prosecuting for the commonwealth, to receive or agree to receive, directly or indirectly, any money or other thing from any person prosecuted for, or supposed to be guilty of, violating any of the penal laws, in consideration not to prosecute such offender, or not to prosecute

him for more than one violation of any penal law, nor in any other way to waive or fail to make a prosecution under any penal law, so as to enable the offender to escape or avoid the full penalty of the law. And if a commonwealth's attorney, or any attorney prosecuting for the commonwealth, shall violate any of the provisions of this section, he shall be guilty of a high misdemeanor, and fined not less than the amount imposed upon the offense compounded or agreed, and imprisoned ninety days.

1853.

Penalty there-
for.

§ 4. If an informer or prosecutor upon a penal statute, or in any criminal prosecution, shall compound the penalty, or agree, directly or indirectly, with any one charged or supposed to be guilty of an offense against the penal laws, in consideration of any money or other thing paid or to be paid, not to produce the requisite proof, or to withhold any witness or evidence in the prosecution, or not to appear as prosecutor or witness against such person, he shall be guilty of a high misdemeanor, and be fined a sum not less than the penalty compounded, or to be imposed upon the person compounded with if he were found guilty, and imprisoned for sixty days; and if the prosecution compounded be for a felony, he shall be fined not exceeding two hundred dollars, and imprisoned not exceeding twelve months.

Penalty for
compounding
offense, &c.

§ 5. In all cases coming within the provisions of the two preceding sections, where the court has reason to believe in the existence of any such corrupt agreement, the judge shall appoint an attorney to prosecute the accused compounded with, and may order the prosecution to proceed, notwithstanding any such corrupt agreement.

Court suspect-
ing corrupt ag-
reement, may ap-
point attorney
to prosecute.

§ 6. In penal prosecutions, if the defendant confess judgment, it shall be for the penalty imposed by law; and if the attorney for the commonwealth, or prosecutor, shall by law be entitled to any portion of the same, only one half of the proportion allowed by law to such attorney or prosecutor, shall be paid to them, and the residue of the penalty shall enure to the commonwealth.

Where defend-
ant confesses
judgment.

ARTICLE XXIII.

Usurpation of office and bribery of officers.

§ 1. If any person shall usurp any office established by the constitution or laws of this commonwealth, or shall knowingly hold and pretend to exercise such office, after his election or appointment thereto shall have been declared by a court of competent jurisdiction illegal or void, or after his term of office has constitutionally and legally expired, he shall be guilty of a misdemeanor, and fined in a sum not less than five nor more than fifteen hundred dollars.

Usurping of
off., &c.

§ 2. Whoever shall agree or promise to sell or purchase, for himself or another, directly or indirectly, for reward or

1832.

Agreeing to
sell or purchase
office, &c.

profit, any office or employment of honor, trust or profit, or any deputation thereto, or any part or participation of the profits thereof, or any appointment or nomination thereto, or resignation thereof, or the consent or voice of any person to such appointment, or nomination, or resignation, shall be fined in a sum not less than fifty nor more than five hundred dollars.

Bribing of
members of gen-
eral assembly,
of executive or
ministerial of-
ficer.

§ 3. If a member of the general assembly, or if any executive or ministerial officer, shall take or agree to take, any bribe to do or omit to do, any act in his official capacity, he shall forfeit his office, and be fined in a sum not less than two hundred nor more than one thousand dollars; and, moreover, be disqualified from holding any office of trust or profit, and from the right of suffrage, for ten years.

ARTICLE XXIV.

Contempts.

Fine not to ex-
ceed \$30, nor
imprisonment 1
day, without ju-
ry.

§ 1. No court or judge shall, for any contempt against such court or judge, impose upon the offender a fine exceeding thirty dollars, or imprison him exceeding one day, without the intervention of a jury legally impaneled to assess the amount of fine and fix the duration of imprisonment.

Before justice
and police judge

§ 2. No justice of the peace or police judge shall, for any contempt offered to him, have power to inflict a fine exceeding three dollars, nor an imprisonment exceeding six hours.

Judge or jus-
tice violating
provisions.

§ 3. If any judge of a court, or justice of the peace, or police judge, violate the provisions of the two preceding sections, he shall be removed from office, and likewise subject to the action of the party injured.

Truth given in
evidence.

§ 4. In all cases of trial by jury arising under this article, the truth of the matter may be given in evidence under the general issue.

Contempts by
witnesses, ju-
rors, &c.

§ 5. Witnesses, jurors, and officers of court, for a contempt in disobeying the summons of court, or neglecting to execute or due return make of a subpoena or order of court, or other judicial officer, or for any other contempt, may be fined by the court or officer sitting as such, in a sum not exceeding thirty dollars.

Entering court
with force and
arms, or ob-
structing pro-
ceedings.

If any person shall, with force and arms, enter any court house, or room in which a court is held, during the time such court shall be in the discharge of their official duties, or if he obstruct or hinder by any means such court from discharging its duties, he shall be fined and imprisoned at the discretion of a jury.

Court not to
proceed as for
contempt for
words or writ-
ing not in its
presence.

§ 6. No court or judge shall proceed by process of contempt, or impose a fine against any person who shall, by words or writing, animadvert upon or examine into the proceedings or conduct of such court or judge, by words spoken or writing published not in the presence of such

court or judge in the court house, during the sitting of the court.

1652.

§ 7. Persons committed to prison for a contempt shall not be admitted to bail.

Bail not allowed.

§ 8. Upon a *capias* or other original process, if sued against a person charged with a contempt, the court or officer awarding it shall direct in what sum or penalty the accused shall give bond, with good surety, for his personal appearance at the time and place named in the process; which order shall be indorsed on the writ. If bond be given and the condition thereof violated, proceedings as in other cases shall be instituted by the attorney for the commonwealth to recover the penalty.

Bond and surety on original process.

§ 9. If the person arrested by virtue of the process in the preceding section, shall fail to give the bond as required, the officer making the arrest shall forthwith remove and lodge him in the jail of the county whence the process issued.

Committed in default of giving bond, &c.

§ 10. Nothing in this article shall be construed to prevent any court or judge thereof from proceeding against any person writing or publishing a libel, or slanderous words, of and concerning such court or judge in relation to his judicial conduct in court, by indictment or presentment, nor from prohibiting any court or judicial tribunal from punishing any person guilty of a contempt, in resisting or disobeying any judicial order or process issued by or under the authority of such court or judicial tribunal or officer.

New article to be construed.

§ 11. If a sheriff or other officer corruptly, or through favor or ill-will, summon a juror with intent that such juror shall find a verdict for or against either party, or shall summon a grand juror from the like motives, with intent that such grand juror shall or shall not find an indictment or presentment against any particular individual, he shall be fined not exceeding five hundred dollars, and forfeit his office, and be forever disqualified from holding any office in this commonwealth.

Sheriff summoning jurors with corrupt intent.

ARTICLE XXV.

Trespass and injury to property.

§ 1. If any person shall wrongfully break or enter a park or other inclosed grounds used for the keeping, breeding, and cherishing of deer, elk, or buffalo, and hunt, drive, or chase, take out, maim, or kill any deer, elk, or buffalo therein found, he shall be fined not exceeding twenty dollars, and shall also pay to the person aggrieved treble the amount of damages sustained. He shall, on conviction of the offense, be compelled to give bond, with good surety, in the penalty of one hundred dollars, to keep the peace and be of good behavior for twelve months. On a failure

Injuries to deer parks, &c.

1852.

Wounding or
killing tame
deer.

to give such bond, the court shall commit him to jail for thirty days, unless such bond be sooner executed.

§ 2. Any person who shall knowingly and wrongfully kill or wound a tame or pet deer, having a bell or collar on, shall be fined five dollars, and pay the owner three times the value of such deer.

Injuries to fish
ponds, &c.

§ 3. If any person shall break or cut down, cut out or destroy any head or dam of any pond, pool, moat, stew, stagnet, or pit wherein fish are or shall be put or stored by the owner or person in possession thereof, or shall wrongfully, and without leave, fish in any of the places above enumerated, he shall be fined not exceeding fifty dollars, or imprisoned not exceeding three months, and pay the party aggrieved treble the damages sustained; and shall, if required, give bond in the penalty of one hundred dollars, with good surety, to keep the peace and be of good behavior for twelve months, or stand committed until such bond be given. If a slave commit any of the offenses in this section, he shall be punished by stripes, not exceeding thirty-nine.

Killing fish,
&c., by throw-
ing in medi-
cines, &c.

§ 4. If any person shall kill, take, destroy, intoxicate, or sicken fish, great or small, or attempt to do so, in any stream, dam, moat, pit, stew, pool, or pond, by throwing or placing therein, or procuring it to be done, any preparation, substance, powders, berries, or medicine of a sickening, intoxicating, or destructive quality, he shall be fined ten dollars.

If a free negro be found guilty of any of the offenses in this section, by the verdict of a jury impaneled by a justice of the peace or in the circuit court, he shall be punished by any number of stripes not exceeding ten. If a slave be guilty of any of the offenses in this section, he shall be punished by the judgment of a justice of the peace, by any number of stripes not exceeding ten.

Setting fire to
woods, &c.

§ 5. If any person shall unlawfully and maliciously set fire to any woods, fence, grass, straw, or other thing capable of spreading fire on land, he shall be fined not exceeding one hundred dollars, and confined in jail not less than two nor more than twelve months.

§ 6. If any person intentionally or negligently set any woods on fire, whereby damage is done to the lands or property of another, he shall be amerced at the discretion of a jury.

Carrying away
or injuring prop-
erty unlawfully,
but not with fel-
onious intent.

§ 7. If any person unlawfully, but not with felonious intention, take, carry away, deface, destroy, or injure any property, real or personal, or other thing of value not his own, or willfully and knowingly, without a felonious intention, break down, destroy, injure, or remove any monument erected to designate the boundaries of this state, or any county, city, or town thereof, or the boundaries of any tract or lot of land, or any tree marked, or post or stone planted

for that purpose, he shall be fined not less than ten nor more than two hundred dollars.

§ 8. If any person shall willfully kill, disfigure, or maim any horse, cow, mule, jack, or jennet, not his own, without the consent of the owner, he shall be fined not less than ten nor more than one hundred dollars, or imprisoned not less than one nor more than six months. If a slave be guilty of either of the offenses above described, he shall be punished by any number of stripes not exceeding thirty-nine.

§ 9. If any person shall willfully and unlawfully cut down or destroy, by belting, topping, or otherwise, any fruit or shade tree of another, or quarry stone on the land, pull down or open the fence or gate, destroy or injure the vegetables, trees, or shrubbery in a garden of any other person, he shall be fined not less than five nor more than five hundred dollars.

§ 10. If any person willfully and unlawfully pull down or injure a church, court house, school house, or other public building, he shall be fined not less than five nor more than five hundred dollars.

§ 11. If a slave commit either of the offenses described in the three next preceding sections, he shall be punished with stripes, not exceeding thirty-nine.

ARTICLE XXVI.

Surety for the peace.

§ 1. No person shall be required to enter into a recognizance to keep the peace or be of good behavior, for a longer period than one year, at any one time.

§ 2. In applications to bind persons to keep the peace and be of good behavior, the court, justice of the peace, or other officer to whom such application is made, shall hear testimony, if offered by either party, to enable him to decide whether the application is vexatious, malicious, with or without good cause.

AMENDMENTS TO CHAPTER 14, REVENUE AND TAXATION.

The third section of the fifth article of said chapter is repealed, and the following is in lieu thereof:

Houses of public worship, and lands held under the laws of this state by any denomination of christians or profession of religion, for devotional purposes, to the extent of five acres; and the land upon which any seminary of learning is erected, to the extent of five acres, held fiducially or individually; and any custom house, post office building, court room, or other necessary offices, or hospitals built or owned by the United States, including the lots or ground on which they are erected; and all libraries, philosophical

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Killing, disfiguring, or maiming horses, cows, &c.

Destroying or injuring fruit trees.

Pulling down or injuring churches, school house, &c.

When offender a slave.

Recognizance for not longer than one year.

Testimony to be heard on application.

Property exempt from taxation.

1852.

apparatus owned by any seminary of learning, and all church furniture and books, for the object and uses of religious worship, shall be exempt from taxation, and may not be listed with the assessor.

The 16th section of the 6th article of the same chapter is repealed.

The 14th section of the 6th article is repealed, and the following is in lieu thereof:

Assessor shall
require amount
to be fixed on
oath.

At the same time the assessor shall require the person referred to in the preceding section, to fix, upon oath, a sum which will cover the amount he was worth on the 10th day of January, from all other sources, exclusive of his estate listed for taxation; also, bank stock taxed in this state; the estate owned and taxed in another state; crops growing on the lands listed for taxation; articles manufactured in the family for its use; provisions and poultry on hand for domestic consumption. In making this estimate, the person may deduct the debts which in good faith he owed as principal at the time.

Amendment to chapter 1st. Husband and wife, article two, marital rights.

Clause repealed.

The words after the 3d section which read thus, "sections one, two and three of this article, shall not apply to a marriage contracted prior to the 23d day of February, one thousand eight hundred and forty-six," are hereby repealed.

Approved January 7, 1852.

CHAPTER 359.

AN ACT for the Appropriation of Money.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the following sums of money, not otherwise appropriated, be paid out of the public treasury, to the several persons named and entitled to the same.

1. To the speakers of the senate and house of representatives, six dollars per day, each, during the present session.

2. To the clerks of the senate and house of representatives, ten dollars per day, each, during the present session, and for six days thereafter, for preparing the acts for publication.

3. To the assistant clerks of the senate and house of representatives, seven dollars per day, each, during the present session.

4. To the sergeants-at-arms of the senate and house of representatives, four dollars per day, each, during the present session.

5. To the doorkeepers of the senate and house of representatives, four dollars per day, each, during the present session.

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6. To Ben. Hardin, jr., two dollars per day for his services as assistant sergeant-at-arms during the present session.

7. To the baptist church, for the use of their bell during the present session, ten dollars.

8. To the publishers of the Commonwealth, for the use of their paper during the present session, one hundred and fifty dollars.

9. To the publishers of the Kentucky Yeoman, for the use of their paper during the present session, one hundred and fifty dollars.

10. To R. R. Bolling, for the use of the servant of the house of representatives for making fires, &c., during the present session, one dollar per day.

11. To J. T. Norwood, for the use of the servant of the senate, for making fires, &c., during the present session, one dollar per day.

12. To Isaac P. Miller, Joseph S. Conn, and Shelby Stone, twelve dollars, each, for expenses in visiting blind asylum, at Louisville.

13. To George W. Walston, thirty-six dollars eighty-five cents, for bill of sundries rendered.

14. To George W. Walston, thirty-five dollars twenty cents, for bill of sundries rendered.

15. To William Veach, thirty-two dollars ninety-five cents, for bill of sundries rendered.

16. To J. M. Gray, thirteen dollars, for bill rendered.

17. To Baker and Anderson, eighteen dollars forty-four cents, per bill rendered.

18. To Doxon and Graham, four dollars sixty cents, for bill rendered.

19. To J. D. Taylor, six dollars and fifty cents, expenses in visiting lunatic asylum at Lexington.

20. To J. A. Goodson, five dollars fifty cents, expenses in visiting lunatic asylum at Lexington.

21. To T. N. Lindsey, ten dollars sixty cents, expenses in visiting banks at Louisville and Lexington.

22. To P. H. Leslie, ten dollars sixty cents, expenses in visiting banks at Louisville and Lexington.

23. To R. Knott, fourteen dollars twenty-five cents, for bill rendered.

24. To F. Troutman, twenty dollars, expenses in visiting banks at Louisville and Lexington.

25. To J. G. James, thirteen dollars fifty cents, expenses in visiting banks at Louisville and Lexington.

26. To A. H. Bryan, twenty dollars sixty cents, expenses in visiting banks at Louisville and Lexington.

27. To N. B. Stone, thirteen dollars fifty cents, expenses in visiting banks at Lexington.

28. To I. N. Sheppard, twenty dollars ten cents, expenses in visiting banks at Louisville and Lexington.

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29. To M. Oglesby, eight dollars, expenses in visiting banks at Louisville.

30. To Samuel Hatfield, thirteen dollars fifty cents, expenses in visiting banks at Louisville and Lexington.

31. To D. B. Stivers, six dollars thirty-five cents, expenses in visiting banks at Louisville.

32. To Revs. S. Robinson, G. W. Smiley, J. Lancaster, B. Mills, and J. N. Norton, twenty-five dollars, each, for services in opening the sessions of the two houses, respectively, with prayer.

33. To M. Oglesby, nine dollars, for expenses in visiting lunatic asylum at Lexington.

34. To B. H. Kerrick, nine dollars, for expenses in visiting lunatic asylum at Lexington.

35. To A. M. Jones, nine dollars, for expenses in visiting lunatic asylum at Lexington.

36. To W. C. McNary, nine dollars, for expenses in visiting lunatic asylum at Lexington.

37. To T. J. Smith, five dollars thirty cents, expenses in visiting bank at Lexington.

38. To A. I. Caldwell, and Dr. N. Green, chairmen of the committee of the senate and house of representatives to visit the deaf and dumb asylum at Danville, one hundred and six dollars twelve cents, expenses for committees in visiting said asylum.

39. To the lunatic asylum at Lexington, twenty thousand dollars, for the support of that institution for the year 1852, payable quarterly in advance out of the public treasury.

40. To the lunatic asylum at Lexington, four thousand one hundred and seventy-two dollars forty-two cents, amount due on building.

41. To the lunatic asylum at Lexington, twelve hundred dollars, amount of outstanding debts against said institution.

42. To the lunatic asylum at Lexington, eight thousand four hundred and ninety-two dollars forty-eight cents, balance due chairman on annual support.

43. To the lunatic asylum at Lexington, fifteen thousand dollars, payable quarterly out of the public treasury, for the support of that institution for year 1853.

44. To A. G. Hodges, two hundred dollars, for making index to journals of senate and house of representatives, session of 1851-'52.

45. To the Cumberland hospital, fifteen hundred dollars, payable quarterly, for the support of that institution for the year 1852.

46. To Cumberland hospital, fifteen hundred dollars, payable quarterly, for support of that institution for year 1853.

47. To Cumberland hospital, eight hundred and fifty

1852.

dollars forty-three cents, balance due for materials, attention, &c., for year 1851.

48. To R. W. Coddington, five dollars twenty cents, for bill of sundries rendered.

49. To W. C. Webster, twelve dollars, expenses in visiting blind asylum at Louisville.

50. To Drury Tye, six dollars forty cents, expenses in visiting blind asylum at Louisville.

51. To Green Sterret, six dollars forty cents, expenses in visiting blind asylum at Louisville.

52. To Birch Musselman, eight dollars, expenses in visiting blind asylum at Louisville.

53. To J. C. Wilmore, ten dollars, expenses in visiting blind asylum at Louisville.

54. To Horace Luckett and Robert Taylor, twenty-five dollars, each, for making out an abstract of the census returns of Kentucky.

55. To Hugh Rodman, ninety-seven dollars, expenses in going to and returning from the lunatic asylum at Hopkinsville, under an appointment by the governor.

56. To Robert Mallory, eighty-eight dollars, expenses in going to and returning from the lunatic asylum at Hopkinsville, under an appointment by the governor.

57. That the sum of five thousand dollars is hereby appropriated for the support of lunatics in the asylum at Hopkinsville: *Provided*, the same shall go into operation under the same restrictions as those imposed on the expenditures at Lexington, Ky.

58. That the sum of two hundred dollars per annum be allowed the president of the board of internal improvement, to enable him to employ a secretary to do the business of the board.

Approved January 7, 1852.

CHAPTER 362.

AN ACT fixing the time of holding the Circuit Courts in the 12th Judicial District,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the circuit courts for the twelfth judicial district in this commonwealth, shall be commenced and held in the several counties therein, as follows, to-wit: in the county of Rockcastle, on the first Monday in March and second Monday in August, in each year, and continue, at each term, six juridical days, if the business require it; in the county of Laurel, on the second Monday in March and third Monday in August, in each year, and continue six juridical days, if the business require it; in the county of Whitley, on the third Monday in March and fourth Monday in Au-

Rockcastle.

Laurel.

Whitley.

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Knox.

Clay.

Harlan.

Perry.

Letcher.

Pike.

Floyd.

Johnson.

Breathitt.

Owsley.

gust, in each year, and continue six juridical days, if the business require it; in the county of Knox, on the fourth Monday in March, and continue twelve juridical days, and the first Monday in September, and continue six juridical days, if the business require it; in the county of Clay, on the second Monday in April and September, in each year, and continue, at each term, six juridical days, if the business require it; in the county of Harlan, on the third Monday in April and September, in each year, and continue, at each term, six juridical days, if the business require it; in the county of Perry, the fourth Monday of April and September, in each year, and continue, at each term, six juridical days, if the business require it; in the county of Letcher, on the first Monday succeeding the Perry circuit courts, in each year, and continue six juridical days, if the business require it; in the county of Pike, on the Monday succeeding the holding of the Letcher circuit courts, in each year, and continue six juridical days, if the business require it; in the county of Floyd, on the Mondays succeeding the Pike circuit courts, in each year, and continue six juridical days, if the business require it; in the county of Johnson, on the Mondays succeeding the Floyd circuit courts, in each year, and continue six juridical days, if the business require it; in the county of Breathitt, on the Mondays succeeding the Johnson circuit courts, in each year, and continue six juridical days, if the business require it; in the county of Owsley, on the Mondays succeeding the Breathitt circuit courts, in each year, and continue six juridical days, if the business require it.

Approved January 7, 1852.

CHAPTER 370.

AN ACT changing the time of holding the Estill and Franklin Circuit Courts.

Franklin circuit court.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That hereafter, the Franklin circuit court shall commence its spring term on the second Monday in April, instead of the first Monday, and hold its session for twelve juridical days instead of eighteen; and instead of a chancery term, as now appointed by law to be held on the fourth Monday in July, and continue twelve juridical days, said court shall, at and for that length of time, hold a term devoted to common law and chancery.

Estill circuit court.

§ 2. That the Estill circuit court, in lieu of its present June term, shall commence on the first Monday in April, and hold its session for six juridical days.

Approved January 7, 1852.

CHAPTER 371.

1852.

AN ACT for the benefit of the Deaf and Dumb Asylum of Kentucky.

WHEREAS, the joint committee from the general assembly to visit the deaf and dumb asylum at Danville, have recommended an appropriation to enable the trustees of said institution to add another school room to the edifice, the citizens of Danville having offered to give five hundred dollars for that purpose, and also to enable them to employ an additional instructor, both of which are represented by them to be necessary to the efficiency of said institution. Therefore,

Trustees may enlarge building.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the sum of fifteen hundred dollars, to be paid on the 10th of January, 1853, be and is hereby appropriated to the trustees of the Kentucky deaf and dumb asylum, to aid them in the building of an additional school-room for the use of said institution: *Provided*, that the said sum of fifteen hundred dollars, herein appropriated, shall not be drawn from the public treasury until the trustees of said institution for the deaf and dumb, or any three of them, who are good and sufficient, and so be adjudged by the governor, shall give bond to the commonwealth of Kentucky, in the penalty of three thousand dollars, to be lodged in the office of the secretary of state, conditioned to erect and build the addition to the buildings already erected for the deaf and dumb, in a good, workmanlike manner, according to the plan proposed; the balance which may be required to erect said additional building is not to be drawn out of the public treasury, but to be furnished by the obligors in said bond.

Amount appropriated to build school room.

Trustees to give bond, &c.

§ 2. That the annual allowance made by law for the support of the indigent pupils in said institution, be increased, from and after the third day of February, 1852, to one hundred and forty dollars for each pupil, to enable the institution to employ an additional instructor.

Annual allowance increased.

Approved January 7, 1852.

CHAPTER 372.

AN ACT for the benefit of the Kentucky Institution for the Education of the Blind.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the president and visitors of the Kentucky institution for the education of the blind are hereby authorized to sell, at private sale or public auction, as they may think best, and for cash in hand or upon time, as they may think best, the lot or parcel of land, together with all and singular the appurtenances which belong to said institution, situate in the city of Louisville, on the south side of Broadway, and between first and second

Authorized to sell present lots of ground.

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Governor to
appoint commis-
sioner to select
suitable site.

cross-streets, and to make proper deeds of conveyance to the purchasers, with appropriate covenants of warranty.

§ 2. That the governor shall appoint three fit and proper persons to select ten acres of land near Louisville, at least not further off than ten miles, for the education of the blind; and, in the selection so to be made, the commissioners shall have due regard to the health and comfort of the pupils who may be placed in said institution.

Commissioners
to report.

The said commissioners are directed to report to the governor the site selected, and the terms on which the same can be obtained, and also a plan for all the buildings which may be necessary to be erected on said grounds.

If governor
approve, shall
direct purchase.

§ 3. That if the governor shall approve of the selection of the ground and the plan of the buildings, he shall order and direct said purchase of the ground to be completed, and the buildings to be erected; and, for that purpose, the proceeds of the grounds directed in the first section of this act to be sold, shall be applied, and also the amount of the insurance on the building on said lot, that was consumed by fire, and also the further sum of ten thousand dollars, which is hereby appropriated out of any money in the public treasury not otherwise appropriated.

\$10,000 appro-
priated.

First section
of former act re-
pealed.

§ 4. So much of the first section of an act, entitled, "an act for the benefit of the Kentucky institution for the education of the blind," approved March 4, 1850, as limits its operation to three years, is hereby repealed.

All blind chil-
dren may be re-
ceived at the in-
stitution

§ 5. The president and visitors of said institution are hereby authorized to receive into the same, and retain for the usual term, without regard to their pecuniary circumstances, all blind children of suitable age, character, and capacity, resident in this commonwealth, on the terms and conditions prescribed by law for those heretofore receivable as beneficiaries of the state.

How long they
may remain.

§ 6. The president and visitors of said institution may allow any blind child, resident in Kentucky, who may have entered, or who may hereafter enter the institution, under the age of thirteen years, to remain therein as a beneficiary of the state, until he attains to the age of twenty-one years.

Approved January 7, 1852.

CHAPTER 393.

AN ACT to provide for the registration of births, deaths, and marriages in Kentucky.

Persons cele-
brating mar-
riages to keep a
registry, &c.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of all clergymen, or other persons, who shall hereafter celebrate or perform the marriage ceremony within this commonwealth, to keep a registry of all marriages celebrated by them, show-

1852.

ing the names, ages, residence, and place of birth of the persons married, whether they were single or widowed, and the time of the marriage.

§ 2. It shall be the duty of all physicians, surgeons, and midwives to keep a registry of all births and deaths at which they have professionally attended, showing, in cases of births, the time and place of birth, name of the father, and maiden name of the mother, and their residence, sex and color of the child, together with its name, if it shall receive one, and whether it was born alive or dead; and showing, in cases of death, the time, place, and cause of death, the name, age, sex, color, and condition, (whether single, married, or widowed,) name and surname of parents, occupation, residence, and place of birth of the deceased: *Provided*, that in case of a birth of a slave, the name of the owner shall be given in place of the names of the parents, and, in case of the death of a slave, the owner's name may be given in place of the condition, occupation, and residence: *And, provided further*, that when two or more physicians, surgeons, or midwives may have attended professionally at any birth or death, that physician, surgeon, or midwife who is oldest in attendance, shall make the registry.

Surgeons and physicians to keep a registry.

§ 3. It shall be the duty of clergymen, physicians, &c., above named, to deposit in the county clerk's office of the counties in which such births, &c., occur, on or before the 10th day of January in every year, the said registry, or a copy thereof, embracing the period of one year, ending on the 31st day of December last preceding the time of deposit; and the clerk shall deliver copies of the same to the assessor.

§ 4. It shall be the duty of the assessors, while making their lists of taxable property, to ascertain and record, in a list separate from the list of taxable property, all the births, marriages, and deaths which shall have occurred within their respective counties in the twelve months ending on the 31st day of December last preceding the time of assessment, with all the items of time, place, &c., herein directed to be inserted in the registries above named; and they shall make strict inquiry of all heads of families, and shall use the registries of clergymen, &c., above named, in order to obtain correctly the information herein required. They shall return said lists of births, &c., with the registries of clergymen, &c., aforesaid, to the clerks of the county courts at the same time they return their lists of taxable property; and the clerks shall copy said lists of births, &c., and transmit the copies to the auditor of public accounts with the lists of taxable property. The clerks shall be paid at the same rates they are paid for copying the list of taxable property. The assessor shall be allowed two cents for each birth, marriage, or death recorded as herein directed,

Assessors of tax to perform certain duties.

1852.

to be paid in the same manner as for making the lists of taxable property: *Provided*, That it shall be lawful for any assessor to record, separately, the time, place, &c., of any birth, marriage, or death which may have occurred prior to the time which the list then being made embraces, or which may have occurred within this commonwealth; for every entry so made, the party causing it to be done shall pay the assessor two cents.

Duties imposed
on the auditor.

§ 5. It shall be the duty of the auditor to make, from all the lists of births, marriages, and deaths so transmitted to him, tabular statements showing, in a condensed form, the information herein required to be preserved, keeping the statistics of each county separate; and to cause 500 copies of the same to be printed in pamphlet form, on or before the first day of January in every year; to transmit not more than five nor less than two copies to each county court clerk's office in this commonwealth, one of which shall be forever carefully kept in such office, and the remainder distributed for the use of the citizens of their respective counties. He shall cause to be printed suitable blanks for the use of assessors, clergymen, physicians, &c., with separate columns for each of the items of information herein required, and send a sufficient number of said blanks to the clerks of each county court for distribution. He shall annex to said blanks such instructions as he may deem necessary to secure the faithful execution of this act.

Assessor may
administer oath.

§ 6. To enable the assessors to obtain full and correct information touching the facts herein required to be ascertained, they shall have full power to swear and interrogate any person in their respective counties for that purpose; and it shall be the duty of all such persons, when thereto required by the assessor, with or without oath, to give him, fully and truly, all the information he or she may possess touching any of said facts.

Duties of clerks.

§ 7. The several county court clerks shall forever carefully preserve the lists of births, &c., and the registries of clergymen, &c., herein required to be returned to them for the use of the public.

Records to be
evidence in the
courts.

§ 8. The said lists of births, marriages, and deaths, returned to the clerks of the county courts by the assessors, as also the original tabular record herein required to be made and kept by the auditor, or a duly certified copy of any birth, marriage, or death from either of them, given and certified by the keeper of such records, shall hereafter be admitted and received, in all courts in this commonwealth, as *prima facie* evidence of any such birth, marriage, or death therein recorded or so certified.

Penalties for
failing to dis-
charge the du-
ties imposed.

§ 9. Any person failing to discharge and perform any of the acts or duties herein imposed and required to be done, shall, for every such failure, be fined in a sum not less than five nor more than twenty dollars, to be recovered by way,

LAWS OF KENTUCKY.

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rant before a justice of the peace, or by presentment by the grand jury.

1852.

Approved January 9, 1852.

CHAPTER 394.

AN ACT to provide for the compensation of the Commissioners on the Code of Practice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James Harlan, Madison C. Johnson, and Preston S. Loughborough be paid, out of any money in the treasury not otherwise appropriated, the sum of one thousand dollars, each, as compensation for their services as commissioners to prepare a code of practice.

Approved January 9, 1852.

CHAPTER 453.

AN ACT appropriating the revenue of Muldrow's Hill Turnpike Road to Taylor county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That when the term for which the tolls on the Muldrow's Hill turnpike road are applied to making the road from Lebanon to New Market expires, then the board of internal improvement shall apply the said revenue to the extension of said road through Campbellsville, in the direction of Columbia, in the direction of Greensburg, when the people shall subscribe stock enough to make five miles of said road in any direction.

Approved January 9, 1852.

CHAPTER 472.

AN ACT in relation to the blind children in Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the present year, it shall be the duty of the commissioners of tax in each county in this commonwealth to ascertain and return, on the back of their books, respectively, the names and ages of all blind children under twenty years of age, in their respective counties, together with the name of the post office nearest to the residence of each.

Approved January 9, 1852.

1852.

CHAPTER 476.

AN ACT to amend an act, entitled, an act to amend the revenue laws, approved February 10, 1845.

In listing under the equalization law, indebtedness is to be deducted.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the first section of an act, entitled, an act to amend the revenue laws, approved February 10, 1845, be so amended, that hereafter it shall be the duty of the several assessors of tax in this commonwealth, after having taken the list of all property required to be specifically listed, to require each person, on oath, to fix the amount he or she is worth from all other sources, on the day to which said list relates, after taking out his or her indebtedness from said amount he or she is worth, exclusive of property in lands, slaves, or other property not within this commonwealth, but subject to taxation by the laws of the country where situated, and the said assessors shall take from the said amount, so assessed and listed, the sum of one hundred dollars, and set down and list the balance for taxation, upon which the same *ad valorem* tax shall be paid as on other property subject to taxation by existing laws: *Provided*, that the growing crop on land listed for taxation, articles manufactured in the family for family use, all the poultry raised for family use, and the provisions on hand for family use, shall be exempt from taxation.

Said indebtedness is to be *de-
na fide* such.

§ 2. *Be it further enacted,* That the indebtedness which is hereby directed to be deducted from the value of a man's property, shall be a just debt or debts owing, and created for a valuable consideration, and not with a view to lessen the amount of his taxable property; and the assessor, in taking in the list of his taxable property, shall swear the person listing property for taxation to the facts herein stated and required, and, upon such person refusing to take said oath, he or she shall not be entitled to the deduction of his or her indebtedness from the value of his taxable property.

Approved January 9, 1852.

CHAPTER 487.

AN ACT fixing the rates of toll on Muldrow's Hill, and to provide for collecting the same,

Penalty for removing obstructions to unlawful passeways.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That any person who may be engaged in removing, or causing the same to be done, any tree, log, brush, or thing placed across a passway or road, or fill up, or cause to be filled, any ditch which has been dug by authority of law, for the purpose of preventing travel, shall be fined not less than twenty dollars nor more than fifty dollars, at the discretion of a jury, which may be recovered as other fines, and paid into the sinking fund.

§ 2. *Be it further enacted*, That the tolls collected upon wagons and carriages of every description, shall be the same as fixed by the board, whether they are drawn by separate teams, or attached to each other.

1852.

Rate of tolls.

Approved January 9, 1852.

CHAPTER 501.

AN ACT to meet the deficit in the Treasury.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the governor be and he is hereby directed, in the name and for and on behalf of the state of Kentucky, to borrow of any of the banks of the state of Kentucky, or of any individuals or corporations, such sum or sums as may be necessary to meet the charges upon the treasury, not exceeding, in the aggregate, the sum of one hundred thousand dollars, at a rate of interest not exceeding six per cent. per annum, which interest shall be payable semi-annually, out of the treasury, and for a period of time not exceeding five years, and subject to be paid off and discharged at any time the condition of the treasury may justify such payment; which sum or sums of money, when so borrowed, shall be audited by the auditor, and paid into the treasury, for the purpose of meeting the deficit aforesaid.

Governor authorized to borrow money.

§ 2. That, with a view to enable the governor to effect such loan, he is hereby vested with full power and authority to issue the bond or bonds of the state, in such form and manner as will meet the terms upon which such loan is directed to be made, as expressed in this act.

May issue the bonds of the state

§ 3. That, for the purpose of paying off and finally discharging the debt of the state, created under the provisions of this act, the governor be authorized, and it is hereby made his duty, at any time when the condition of the treasury will justify the same, to issue an order upon the auditor, directing him to draw his warrant upon the treasury, in behalf of any person or persons, corporation or corporations holding the said bonds or any portion thereof: *Provided*, that the bonds of the state so held shall, upon such payment, be surrendered to the treasurer for the amount paid, and by him burned, in the presence of the governor and auditor, and the statement of the amount and date of such burning shall be entered upon the record of said treasury office, signed by the governor, auditor, and treasurer: *Provided*, if the governor cannot effect the loan provided for by this act, he shall be authorized to allow to sheriffs at the rate of six per cent. per annum for any revenue advanced by them, from the time of advancement until the regular time of payment.

Said loan may be repaid at any time.

Approved January 9, 1852.

LAWS OF KENTUCKY.

PASSED AT NOVEMBER SESSION, 1851.

LAZARUS W. POWELL, GOVERNOR; JOHN B. THOMPSON, LIEUT. GOVERNOR AND SPEAKER OF THE SENATE; GEORGE ROBERTSON, SPEAKER OF THE HOUSE OF REPRESENTATIVES; DAVID MERIWETHER, SECRETARY OF STATE.

LOCAL AND PRIVATE LAWS.

CHAPTER 2.

AN ACT authorizing the County Court of Bracken to lay the county levy at the November term, 1851.

WHEREAS, the judge of the county court of Bracken was unable, from sickness, to hold the October term of his county court; and whereas, there is no provision in the law to remedy the failure of the holding said court; and whereas, the law now provides for laying the county levy, &c., at the October term of said court. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, at the ensuing November term of the said county court of Bracken, it shall be invested with all the power the law organizing county courts conferred upon said court at its October term; and it may proceed to lay the levy, audit claims, make appropriations, and issue process to compel the attendance of the justices of the peace, as by law said court was authorized to do at its October term.

GEO. ROBERTSON,
Speaker of the House of Representatives.

JOHN B. THOMPSON,
Lieut. Governor and Speaker of the Senate.

Approved November 17, 1851.

L. W. POWELL.

BY THE GOVERNOR:

DAVID MERIWETHER, *Secretary of State.*

CHAPTER 3.

AN ACT for the benefit of Samuel Haycraft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Samuel Haycraft, late clerk of the Hardin circuit and county courts, be allowed the further time of two years to list and collect his fee bills, as clerk of said courts.

Approved November 18, 1851.

1851.

CHAPTER 4.

AN ACT for the benefit of John Elliot and Mary Ann Elliot, his wife, of Fleming county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Fleming county court, at their next April or May term, to make an order for the support of John Elliot and Mary Ann Elliot, his wife, of said county, in some private family, and appropriate a sum not exceeding fifty dollars a year each, as said court may deem necessary for their support, to be paid annually, as other claims upon the county are paid, to such person as the court may direct to receive and apply the same.

Approved November 18, 1851.

CHAPTER 5.

AN ACT to incorporate the Trustees of Centerpoint Meeting House, in Monroe county.

Trustees appointed.

Corporate name and powers.

May fill vacancies in their body.

May purchase land.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Hugh Kirkpatrick, Benjamin F. Bedford, Francis Walker, Stephen H. Bedford, and William F. Gearald, be and they are hereby constituted a body corporate and politic, by the name of the trustees of Centerpoint meeting house, in Monroe county; and by that name may sue and be sued, plead and be impleaded, in any court of law or equity in this commonwealth, with perpetual succession, and the right to have and use a common seal; and said trustees shall have power, on the death, resignation, removal, or other disqualification of any of the trustees or their successors, a majority of those remaining concurring, to fill such vacancy or vacancies; and the person or persons so appointed shall be vested with power and authority as if named specially in this act.

§ 2. That said trustees and successors shall have power, and authority to purchase a suitable lot or lots of ground, not exceeding five acres, for the purpose of furnishing timber for the use of said meeting house, and for other purposes, and hold the same by deed.

Approved November 18, 1851.

CHAPTER 6.

AN ACT for the benefit of George Dunn, Jailor of McCracken county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, it shall and may be lawful for George Dunn, jailor of McCracken county, to reside any where within the corporate limits of the town of Paducah, in said county, during his continuance in office.

Approved November 18, 1851

CHAPTER 7.

1851.

AN ACT to incorporate Boyle Lodge, No. 56, I. O. O. F., at Perryville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That J. W. Burton, Henry Gray, Nelson Crane, S. P. Burton, S. T. Roberts, J. S. Gilkeson, Addison Parks, J. J. Crane, J. W. Durham, J. A. Corey, W. H. Smith, H. H. Crane, C. T. Armstrong, John McGinnis, and their associates, be and they are hereby created a body politic and corporate, by the name and style of Boyle Lodge, No. 56, of the independent order of odd fellows; and they, with their associates, the present members of said lodge, and successors, shall so continue and have perpetual succession; and by that name are hereby made capable, in law, as natural persons, to sue and be sued, plead and be impleaded, contract and be contracted with, answer and be answered in all courts of law and equity in this commonwealth, and elsewhere; to make, have, and use a common seal, and the same to break, alter, or amend at pleasure; and to make and ordain such regulations and by-laws for their government as, from time to time, they may deem proper, and change and renew the same at pleasure: *Provided*, they be not in contravention of the constitution and laws of the grand lodge of the United States, or of the grand lodge of the state of Kentucky, or of the constitution of the United States, or of this state.

Corporator's names.

Corporate name and powers.

They may make by-laws, &c.

May hold real estate.

§ 2. That said corporation shall have the right to purchase and hold a suitable lot, or lots, in the town of Perryville, upon which to erect such buildings as may be necessary for the use of said lodge, and for schools, burial, and other purposes of the order.

§ 3. That said corporation shall have power to raise money by subscription, purchase, gift, or devise, to any amount not exceeding fifty thousand dollars, to be used for the purposes of the institution.

May receive money by donation, &c.

§ 4. That said corporation shall have power to sell, dispose of, and convey the ground acquired under this act, or any portion thereof, if they deem it necessary so to do: *Provided*, that nothing herein shall prejudice the rights and claims of the grand lodge of the state of Kentucky.

May dispose of their real estate.

§ 5. That in March next, after the passage of this act, the corporators herein named, or a majority of them, shall call a meeting at a convenient place in the town of Perryville, and give due notice thereof to the residue, and at such meeting they may adopt such permanent regulations as to the majority of them may seem proper.

May adopt permanent rules, &c.

§ 6. That it shall be the duty of the corporators and their associates, to appoint such officers of the lodge as they may deem proper, to take charge of the fiscal concerns of said corporation; a majority of whom shall constitute a quorum to do business.

May appoint persons to manage their affairs.

§ 7. That said lodge shall not have nor exercise, under

1851.

Right to annul
 charter reserv-
 ed.

this charter, any power or privilege not herein expressly granted; and the general assembly reserves the right to amend or repeal this act at pleasure; but the repeal thereof shall not deprive said Boyle Lodge, No. 56, of the independent order of odd fellows, of the property and effects acquired and held under this charter.

Approved November 18, 1851.

CHAPTER 8.

AN ACT to authorize a change in the State Road leading from the Tennessee River to Columbus.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Graves county court shall have power to change so much of the state road leading from the Tennessee river to Columbus, in Hickman county, as runs through the lands of Elijah Carman, of said county: *Provided,* that said court, in making such change, shall be governed by the general laws now in force in relation to roads in this commonwealth: *And, provided further,* that before any change shall be made, the proposed road shall be opened out and put in good order.

Approved November 18, 1851.

CHAPTER 9.

AN ACT to amend the act incorporating the Maysville and Mt. Sterling Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act, entitled, an act incorporating the Maysville and Mountsterling turnpike road company, be so amended that the president and directors of said road may reduce its width to any number of feet not under forty-five.

Approved November 18, 1851.

CHAPTER 11.

AN ACT vesting the county court of Owen with power to change the location of a part of the State Road leading from Covington to Louisville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Owen county court be vested with power and authority to change that part of the state road leading from Covington to Louisville, where the same passes over the lands of William G. Simpson, Samuel H. Riley, and Lawson L. Spires, in said county: *Provided,* said court shall be of opinion, after being fully advised and

informed in the premises, according to the requisitions of the general law upon the subject of altering roads, that no inconvenience will arise to the public or individuals, if the proposed change be made.

1851.

Approved November 18, 1851.

CHAPTER 12.

AN ACT to provide for changing the place of voting in the fifth district; and for the erection of an additional civil district and election precinct in Christian county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That on the first Monday in August, 1853, it shall be the duty of the sheriff holding the election at the town of Lafayette, in the county of Christian, after each voter shall have voted for the regular officers to be elected on that day, to put the following question to each voter separately, viz: are you in favor of the voting place in this district remaining at Lafayette, or being removed to Robert Jones's old farm? and, if a majority of the votes cast be in favor of the voting place remaining at Lafayette, that shall remain the place of voting; but if a majority of all the votes cast be in favor of removing the voting place to Robert Jones's old farm, it shall be accordingly removed.

Vote shall be taken as to moving the voting place.

§ 2. That Daniel McKnight, James Hamby, John Oglesby, James Thompson, Zera Morris, Daniel Dulin, Edward Dulin, John McClelland, and Green Wooldridge, any five of whom may act, be and they are hereby appointed commissioners to lay off an additional magistrates' and constable's district, in the county of Christian, to be composed of territory now included in districts Nos. 2, 7, and 8; and it shall be the duty of said commissioners to fix the places of voting in districts Nos. 2, 7, and 8, and in the district above directed to be laid off, so as to be as convenient as may be to all the voters in the above named districts, and report the same, for record, to the county court of said county: *Provided*, That the magistrates and constables now in office in said district, shall continue to hold their offices therein, and exercise their jurisdiction in all respects as they now do, until the term for which they were elected shall have expired: *And, provided further*, That said additional magistrates' and constable's district, when so laid off, shall form an additional election precinct in said county.

Commissioners to lay off a new district for justices and constables.

Magistrates and constables now elected to remain in office.

New district to be an election precinct.

Approved November 18, 1851.

1851.

CHAPTER 13.

AN ACT for the benefit of the stockholders in the Carrollton and Eagle Creek Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the several stockholders in the Carrollton and Eagle creek turnpike road company, shall have one hand exempt from working on county roads, in Carroll county, for each one hundred dollars in stock held and owned by them, respectively, in said turnpike road company : *Provided however,* That no stockholder shall avail himself of the benefit of this act, until he shall have paid to the treasurer of said company the entire amount of stock subscribed by him.

Approved November 18, 1851.

CHAPTER 14.

AN ACT embodying into one the several acts, and amending the road law of Campbell county.

County court
to lay off the
county into road
districts.

Surveyor to be
appointed in
each.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the county court of Campbell county, at the March term, 1852, shall divide said county into suitable road districts, to be known by their number, or adopt the present districts, with such alterations as the court may deem advisable, and appoint a surveyor to each district, who shall serve for one year, or until his successor shall be appointed; and at the expiration of his term of office, or upon resignation for good cause shown, said surveyors shall return to the court their order of appointment, with all orders of allotment of hands, with the list of taxes, and the order appointing. Each surveyor shall give the number of his district, and the allotment of hands shall, in all cases, be made by naming the hands in the order making the appointment of surveyor, as aforesaid.

Resignations
to be received
only at March
term.

§ 2. That the county court shall not receive the resignation of any surveyor, or make any change in the allotment of hands, unless for good cause shown, except at the March term in each year; but nothing in this act shall prevent the court, at any time, from allotting to any surveyor, any person or persons who may have been omitted in the allotment of hands, or those moving into a district, or those becoming of age after the allotment of hands.

Road tax to
be collected—
collector's du-
ties.

§ 3. That there shall be collected, by the collector of the revenue, a road tax—the amount to be affixed by the county court at its March term of each year—of not less than two nor more than eight cents on each one hundred dollars worth of property now assessed in each year for revenue purposes, which shall constitute a road fund, and be expended under the direction of the county court; and said collector shall report, and settle with the county court

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at the November term, annually, for the taxes so assessed and collected, or which ought to have been collected by him; and upon his failing to do so, or upon his failing to pay over the money thus collected, or which ought to have been collected by him, the same proceedings shall be had against him and his securities as are now allowed by law against the collector of the county levy in said county.

§ 4. That the county court of said county shall appoint a treasurer of said fund, who shall continue in office two years, and shall execute bond, with security to be approved of by the court, payable to the commonwealth of Kentucky, conditioned for the safe-keeping and disbursement of said fund, according to the order of said court; and to report to the court at the March term in each year, the amount and condition of said fund, by settlement with commissioners to be appointed by the court at the February term in each year; and to be allowed a reasonable sum for his services, to be levied for at the court of claims; and to be liable to a motion on his bond before said county court, with twenty per centum damages on the amount received, for any failure to execute the duties of treasurer, as aforesaid.

Treasurer of road tax to be appointed, who shall execute bond—his duties and compensation.

§ 5. That the occupant of lands subject to tax, shall be liable for taxes due on lands to the extent of his liability to his landlord for rent: *Provided*, said landlord or owner is not a resident of said county: *And, provided*, said occupant has notice of the tax before he pays his landlord; and such payment shall be a receipt against the landlord to the amount so paid.

Occupant of land liable to pay the road tax of his landlord.

§ 6. That any person liable to pay a road tax under the above act, may work the same out on the roads in his district, at the rate of seventy-five cents per day; and the surveyor is hereby authorized to call out the hands in his district, subject to road taxes, at such times between his receiving the list of taxes hereafter provided for, and the first day of August, as he may deem best for the public good, giving at least two days' notice; and it shall be the duty of the surveyor, after working his roads, to give each person who may attend and faithfully work, a receipt for the number of days he may have worked, and allow, therein seventy-five cents per day, or at that rate; and the collector of said road tax shall receive said receipts as so much tax paid by the holder thereof, and proceed to collect the balance of the road tax not worked out; and the receipts, thus taken in by the collector, shall be credited to him as so much money collected, in his settlement with the county court.

Persons liable to road tax may work it out.

Duty of surveyor.

§ 7. That each surveyor may call out all the hands that are subject to work on roads in their respective districts, as well those who have worked out their road tax as those who have not, at such times as he may deem advisable for

Surveyor shall call out all the hands, if necessary.

1851.

the public good: *Provided*, that said hands shall not be called out more than three days in any one year, except when any obstruction, from any cause, may occur to impede the travel, when it may be lawful for the surveyor to call out as many hands as may be necessary to remove such obstruction, which hands shall be exempt the next call: *Provided*, that it is not to work out road tax.

Notice to be
given to road
hands.

Delinquent list
to be made out
and warranted
on.

§ 8. That the surveyors of roads shall give at least two days notice to all hands bound to work on roads in their respective districts; and if they fail to attend in person, or by substitute, and work, the surveyor shall make out a delinquent list, and place the same in the hands of the justice of the peace in whose district such delinquent or delinquents may reside, who shall issue his warrant against such delinquents; and upon service thereof, and notice, and failure to attend and work being proven, judgment shall be rendered against such delinquent for \$1 per day, or in that proportion for the time lost, to be collected with costs as other debts; and the justices are hereby authorized to hear and determine said causes out of their regular term time.

Money so col-
lected to be paid
to surveyor of
the district.
How to be ap-
plied.

§ 9. That the officer collecting money from delinquents, as above provided for, shall pay the same over to the surveyor of the roads in the district in which such delinquent may reside, who shall appropriate the same to the improvement of the road or roads in his district; and should any surveyor have any unappropriated funds in his hands at the expiration of his term of office, he shall pay the same over to his successor, taking his receipt for the same.

On failure to
recover, costs to
be paid out of
road fund.

§ 10. That should the charge of delinquency not be sustained against the defendant, the amount of costs shall be certified by the justice and presented to the county court, and if allowed, shall be paid out of the general road fund.

Duty of clerk
of Campbell
county.

§ 11. That the clerk of said county court shall copy the orders appointing surveyors, and shall place them in the hands of the sheriff for distribution in five days after the adjournment of the court at which they are made, noting the time they are delivered to the sheriff; and when the assessor or commissioner of tax shall have returned his tax books, the clerk shall ascertain the amount of tax each individual in each road district has to pay, and make out a separate list of the hands of each district, and annex the amount of tax to each name, with a certificate on each list that it contains the true amount of road tax payable by each hand; which lists shall be placed in the hands of the sheriff in five days after the return of the commissioner's book to the clerk's office, the clerk noting the time the lists are delivered to the sheriff; and the sheriff shall deliver the said orders and tax lists to the surveyors of the different districts in six days after they have been respectively received by him; and the surveyor shall make a note of the time the orders and tax lists are respectively received

Sheriff's duty.

by them; and the clerk shall receive, for making out the lists and annexing the road tax, and the sheriff for delivering the same as above provided for, a reasonable compensation, to be allowed by the county court.

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Fees of clerk and sheriff.

§ 12. That should the clerk fail to deliver the road orders, or the lists of taxes, to the sheriff, as specified in the eleventh section of this act, he shall forfeit ten dollars, to be deducted from his allowance for making out the lists and annexing the tax; and the sheriff, for each failure to deliver the said orders or tax lists to the different surveyors in the time specified, shall forfeit three dollars for each failure, to be deducted out of his allowance for delivering the tax lists, unless for good cause shown in either case.

Penalty on clerk for neglect of duty.

Penalty on sheriff.

§ 13. That each surveyor, before he enters upon the duties of his office, shall take an oath faithfully to discharge the duties of road surveyor according to law and to the best of his ability; which shall be certified on the back of the order, by the justice administering the oath.

Surveyors to take oath of office.

§ 14. That all property situated within the corporate limits of the city of Newport shall be exempt from the provisions of this act, and the citizens thereof shall be exempt from working the roads.

City of Newport exempt from this act.

§ 15. That the county court, in laying off said county into suitable road districts, shall make the town of Jamestown one district, and appoint a surveyor of streets and alleys, whose duties shall be the same as the county road surveyors; and the citizens thereof shall work the streets and alleys of said town in the same manner, and be subject to the same tax, as other districts: *Provided*, that they shall not be called upon to work on roads outside of the limits of said town.

Jamestown to form a district.

§ 16. That all special laws in relation to working roads in Campbell county, heretofore passed, be and the same are hereby repealed; and that all the general laws of this commonwealth in relation to working roads, not incompatible with this act, be and the same are hereby declared to be the road laws for the county of Campbell: *Provided*, that nothing in this act shall be so construed as to prevent the sheriff or collector from proceeding to collect any road tax which has been affixed by the county court for the present or ensuing year under the several acts thus repealed; and that nothing in this act shall be so construed as to affect any settlement with any treasurer of the road fund, collector, or sheriff, or ex-sheriff, or to affect any suit which has been, or may hereafter be instituted against any such treasurer, collector, sheriff, or ex-sheriff, or their securities, for default in not paying over funds in their hands, which should have been paid over.

Former laws repealed.

Proviso.

Approved November 18, 1851.

1851.

CHAPTER 15.

AN ACT to provide for surveying and re-marking the dividing line between Barren and Edmonson counties.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, James Scrivener, of the county Barren, and James Jones, of the county of Edmonson, be and they are hereby constituted and appointed commissioners to survey and re-mark the dividing line between the counties of Barren and Edmonson, beginning at the corner of Barren, Edmonson, and Hart counties and running to, or near to, the residence of Hawkins Camp; and, for that purpose, may employ two chain carriers, to whom they shall administer an oath for the faithful performance of their duties.

§ 2. It shall be the duty of said commissioners to make out and file in the county court clerk's office of each county, a copy of said survey; and for their services they are authorized to make out, on oath, an account, which shall be allowed and levied by their respective county courts, each county paying one-half the expenses of said survey.

Approved November 18, 1851.

CHAPTER 16.

AN ACT to change the place of voting in district No. 6, in Knox county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the 6th district, in Knox county, be changed from John Mason's house, on Clear creek, to the Cold Spring school house, in said district; and that all elections in said district shall hereafter be held at said school house.

Approved November 18, 1851.

CHAPTER 17.

AN ACT to change the place of voting in the second district in Meade county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the second district, in Meade county, be changed from James Popham's to the house of John Yuteslar; and that hereafter all elections in said district shall be held at the house of said Yuteslar.

Approved November 18, 1851.

LAWS OF KENTUCKY.

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CHAPTER 19.

1851.

AN ACT for the benefit of the infant children of John Braxdall, Jr., deceased.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the Boyle circuit court, upon the guardian or guardians of the infant children of John Braxdall, jr., deceased, filing his or their petition in said court, be and he is hereby authorized and empowered to render a decree, directing and empowering the said guardian or guardians to invest the money in his or their hands, belonging to said infant children, in any real estate the said judge may direct in said decree; the court first being satisfied that it will redound to the interest of said infant children to authorize such investment.

Approved November 22, 1851.

CHAPTER 20.

AN ACT incorporating the Kentucky State Medical Society.

WHEREAS, it has been represented to the general assembly that sundry citizens, hereinafter named, have associated themselves as a society, with a view to the advancement of medical knowledge throughout the state of Kentucky; and that the accomplishment thereof would be greatly facilitated, and their labors rendered more extensively useful, if they were vested with some of the powers or attributes of a corporate body. Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That S. D. Gross, Henry Miller, W. H. Miller, D. W. Yandell, T. G. Richardson, D. D. Thompson, R. J. Breckinridge, jr., N. B. Anderson, J. B. Flint, E. D. Foree, J. Dudley, J. P. Letcher, W. L. Sutton, C. H. Spilman, W. R. Evans, A. Evans, W. R. Chew, George B. Harrison, W. S. Chipley, W. C. Sneed, H. Rodman, C. G. Phythian, Benjamin Hensley; Joseph G. Roberts, Benjamin Monroe, jr., E. H. Watson, J. M. Mills, L. Y. Hodges, E. H. Black, James R. Adams, Joshua Gore, Henry Craig, J. D. Winston, D. S. Slaughter, R. W. Glass, D. J. Ayres, L. G. Ray, Edward Ingels, E. C. Drane, and J. C. Darby, as well as all others who may hereafter be admitted to membership with them, be a body corporate and politic, by the name and style of the Kentucky state medical society, and by that name shall be capable of suing and being sued, in any of the courts of this commonwealth, and shall have perpetual succession, and be authorized to use a common seal.

Corporator's names.

Corporate name and power.

§ 2. That it shall be lawful for said corporation, thus constituted, to enact all such by-laws as they may deem necessary and proper for attaining the objects of their institution, and not contrary to the laws of the United States or of this commonwealth.

May enact suitable by laws

1851.

May require
admission fee.

§ 3. That it shall be lawful for said society to require of persons admitted to membership therein, such admission fees and annual contributions as a legal quorum thereof may, from time to time, enact; and if any member shall refuse or fail to pay such admission fee or annual contribution, the same shall be recoverable by the society, on motion, with ten days notice, before any of the superior or inferior courts of law held in this commonwealth, or in any county, city, or corporation whereof the member, so refusing or failing to pay, shall be an inhabitant.

May hold real
estate.

§ 4. That it shall be lawful for said society to hold, under any title recognized by the laws of this state, such buildings as may be required for their immediate personal accommodation as a society, for lecturing rooms, a dissecting room, and such other apartments as may be manifestly necessary or convenient for the promotion of medical knowledge.

§ 5. That it shall be lawful for the said society to hold, under any title recognized by the laws of this state, whether coming to them by purchase, donation, or otherwise, so much real property, exclusive of that mentioned in the fourth section of this act, whereof the clear income, on an average of ten years, shall not exceed two thousand dollars per annum.

Charter subject
to amendment.

§ 6. That this act shall be at all times subject to be amended or repealed, as the general assembly shall deem necessary and proper.

Approved November 24, 1851.

CHAPTER 21.

AN ACT to divide District No. 4, in Trigg county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the Trigg county court, upon the petition of a majority of the voters of the fourth district, in said county, may, at the February court of said county, appoint three commissioners, not living in said district, who shall proceed to lay off and divide said district into two districts, and establish a voting place in each, having due regard to the convenience of all the voters of said districts, and report, at the April term of said county court, the boundaries and places of voting of said districts.

Approved November 24, 1851.

CHAPTER 22.

AN ACT to amend and reduce into one the several acts concerning private passaways in Mercer county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That when a plantation or plantations,

tract or tracts of land in Mercer county, belonging to any person or persons in the possession thereof, either by the owners or their tenants, shall be so situated from the fencing, joining and erected thereon, that no reasonable road or passway therefrom exists, or is left open for traveling to or from the court house in Mercer county, or to any town, or ferry, or landing, or warehouse, or mill, or house of public worship, or in getting to or from one public road to another public road, leading to or from any of the above named places in Mercer county, it shall and may be lawful for any person or persons so aggrieved and obstructed in getting to or from either of the above named places, having given ten days' previous notice, in writing, to any person or persons through whose land or lands a private passway shall be proposed to be established, to apply to the Mercer county court, whose duty it shall be appoint five house-keepers of good fame, and no wise related to either party, any three of whom may act, who, after being first duly sworn by some justice of the peace, or judge of a court, faithfully and impartially to discharge the duties required of them by this act, shall go on any lands through which a passway shall be proposed and desired, and carefully examine into the whole cause of complaint. And after such examination, should a majority of them be of the opinion that there is a real necessity for such private passway, arising from any of the causes before mentioned, or from the unreasonable extent or distance of traveling around such inclosed lands to get to or from the places, or any of the places before mentioned, they shall designate with sufficient certainty the route said passway ought to be laid out and run, the width of which shall not exceed twenty feet; a descriptive report of which they shall make out in writing, and return to the county court of Mercer; a copy of which shall be given to the owner or owners of said lands through which said passway is proposed to be run, or to his or their agent or attorney, or tenant in possession, should the owner or owners of said land be absent from the state, ten days before the court shall act upon the original report. But should a majority of said commissioners be of the opinion that there is no real necessity for such passway, they shall report the fact to the said county court, who shall thereupon dismiss the matter for the same.

§ 2. *Be it further enacted*, That the copy of the report and notice above mentioned, required to be delivered to the owners of the land, tenants, agents, or attorney, may be done by any constable or sheriff, whose official return on the original shall be evidence of the delivery of the copy or notice so required to be given.

§ 3. *Be it further enacted*, That the second, third, fourth, fifth, sixth, seventh, eighth, and ninth sections of an act, passed and approved on the 22nd day of February, 1834,

1851.

How passways
may be opened.

Copy of notice
and report—by
whom delivered

1851.

in relation to private passways, which were made applicable to Mercer county, and several other counties therein named, be and the same are hereby adopted, incorporated, and made part of this act, so far as Mercer county is concerned, and to be and constitute the fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh sections of this act, with this exception, that where ten feet is mentioned in said sections hereby adopted, it shall be twenty feet in place of ten feet.

All acts repealed within purview of this act, &c.

§ 4. *Be it further enacted*, That all acts or parts of acts coming within the purview of this act, and the adopted and incorporated sections above referred to, so far as Mercer county is concerned, be and the same are hereby repealed: *Provided, however*, that all the private passways which have heretofore been established by the Mercer county court, by any order or orders of said court, under the provisions of the general private passway laws, or under the provisions of the act of 22nd February, 1834, above referred to, are hereby declared to be good and valid, and as legal as though said acts, or any part of them, had never been repealed, so far as Mercer county is concerned.

County court appoint hands to open and work roads.

§ 5. *Be it further enacted*, That the Mercer county court may allot hands to open and keep in repair any private passway, which shall hereafter be established in Mercer county, under the provisions of this act, or may require the applicants to open and keep the same in repair.

Approved November 24, 1851.

CHAPTER 23.

AN ACT to incorporate Friendship Lodge, No. 5, Independent Order of Odd Fellows, at Lexington, Ky.

Body corporate may hold real estate.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of Friendship Lodge, No. 5, of the independent order of odd fellows, at Lexington, Kentucky, be and they are hereby created a body politic and corporate, with perpetual succession, by the name and style of Friendship Lodge, No. 5, I. O. O. F.; and by that name shall be capable of contracting and being contracted with, of suing and being sued, of leasing, renting, purchasing, and holding all such real estate as the said corporation may consider requisite for the use and accommodation of said lodge; to receive all necessary conveyances, and to sell, dispose of, and convey all such real estate as they may now own, or hereafter acquire: *Provided*, the amount vested in real estate, by purchase made by such lodge, or otherwise, shall at no time exceed the sum of ten thousand dollars, in addition to the cost of the building or buildings that may be erected thereon.

§ 2. The said corporation shall have power to acquire and hold personal estate, not exceeding in value twenty thousand dollars; and, in addition thereto, shall have power to create a fund in accordance with the rules and regulations of the order, and the laws of the grand lodge of Kentucky of the independent order of odd fellows, for the benefit of the widows and orphans of members of the corporation, as will or may be sufficient to yield an annual income not exceeding three thousand dollars.

1851.
May hold personal estate.

§ 3. The said corporation shall have power to establish a school and a library, or either, and to acquire and hold, for that purpose, a fund sufficient to yield an annual income not exceeding five thousand dollars; and to appoint suitable teachers, stewards, and other necessary officers, and to remove the same at pleasure; and said school or library to be for the use and benefit of the orphans of the members of the independent order of odd fellows.

May establish a school and provide means of support.

§ 4. The said corporation shall make known all its acts by the signature of the N. G. at the time, and by the attestation of the secretary, and the seal of the lodge, which shall be binding upon said corporation.

§ 5. The said corporation shall have power, from time to time, to pass laws and rules for the regulation of the same, not inconsistent with the laws of the United States and the state of Kentucky, and not inconsistent with the laws and rules of the grand lodge of Kentucky of the independent order of odd fellows.

May pass by-laws, rules, &c.

§ 6. In the event of a dissolution of this corporation, its effects and property, real and personal, shall be disposed of as the laws of the grand lodge of Kentucky, independent order of odd fellows, may designate and declare.

In case of dissolution, grand lodge to dispose of the effects.

Approved November 24, 1851.

CHAPTER 25.

AN ACT for the benefit of the sheriff of Ohio county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John B. Stevens, sheriff of Ohio county, shall be allowed until the April term of the Ohio county court, 1852, to make his returns to said court of his delinquent list of revenue tax and county levy for the year 1851; and, when so made, he shall be credited therewith.

Approved November 24, 1851.

CHAPTER 26.

AN ACT to amend the charter of the Union and Florence Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the Union and Florence

1851.

turnpike company be so amended that the president and directors of said company shall be allowed to erect a gate, or gates, for the collection of toll on said road; and that they be authorized to charge half toll for all wheel carriages and stock, and for convenience of change, a uniform rate of three cents on a single horse and rider.

Approved November 24, 1851.

CHAPTER 27.

AN AOT to incorporate Mangum Lodge, No. 21, Independent Order of Odd Fellows.

Members in-
corporated.

Corporate name
and powers.

May make by-
laws, &c.

May hold real
estate.

Create a
widow's fund.

May establish
a school and li-
brary.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That H. S. Lewis, L. M. Flournoy, Wm. F. Norton, F. D. Patton, and George H. Morrow, and their associate members of Mangum lodge, No. 21, independent order of odd fellows, in Paducah, be and they are hereby created a body politic and corporate, by the name and style of Mangum Lodge, No. 21, independent order of odd fellows, with perpetual succession; and by that name shall be capable in law to have and use a common seal, to sue and be sued, plead and be impleaded, to answer and defend in all courts and elsewhere, as natural persons; and may ordain and put in execution such laws, rules, and regulations for its government and the management of its affairs, and may change and renew the same, as they may deem proper: *Provided*, they be not contrary to the laws and constitution of this state, or of the United States.

§ 2. The said corporation shall have power to acquire and hold real and personal estate, not exceeding twenty thousand dollars in value; and, from time to time, if deemed expedient, may sell and convey the same, or any part thereof, or to re-invest or dispose of the proceeds; and to create a fund, in the same manner, for the benefit of widows and orphans of members of the corporation, as they may decide, sufficient to yield an annual income not exceeding three thousand dollars, and to make and change the laws and rules for its management and distribution.

§ 3. The said corporation shall have power to establish a school and a library, or either, and to acquire and hold for that purpose a fund, in the manner named in the second section of this act, for the support of the same, or either, sufficient to yield an annual income not exceeding five thousand dollars, and to appoint suitable teachers, stewards, and other necessary officers, and to remove them at pleasure; and may ordain, execute, and change all laws, rules, and regulations, which it may deem necessary and proper, so that they be not contrary to the constitution and laws of this state, or of the United States.

Approved November 24, 1851.

CHAPTER 28.

1851.

AN ACT to amend the charter of the Covington and Lexington Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the number of directors of the Covington and Lexington railroad company be increased to nine; and hereafter there shall be elected at least one director from the stockholders, residing in each of the counties of Fayette, Bourbon, Harrison, Pendleton, and Kenton; and when vacancies shall occur in the board, appointments shall be made, so as to have one director, at least, residing in each of said counties.

Number of
directors in-
creased.

§ 2. That immediately after the passage of this act, the board of directors of said company may make appointments so as to fill up the board; one director so appointed shall reside in Fayette county, and one in Bourbon county, who shall serve until the succeeding election of directors of said company.

Board may ap-
point to fill up
the number.

Approved November 24, 1851.

CHAPTER 29.

AN ACT to amend an act, entitled, an act to incorporate the Lexington, Owingsville, and Big Sandy Railroad Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the title of an act, entitled, an act to incorporate the Lexington, Owingsville, and Big Sandy railroad company, be amended so as to read, an act to incorporate the Lexington and Big Sandy railroad company; and that said railroad shall be surveyed and located on the best and most practicable route from Lexington to Big Sandy river, without regard to any intermediate points, by the commissioners heretofore appointed.

Approved November 24, 1851.

CHAPTER 30.

AN ACT to authorize the Crittenden County Court to change the state road to Flynn's ferry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Crittenden county court be and is hereby authorized to change the state road from Princeton to Flynn's ferry, on the Ohio river, so as to leave the old road at or near the farm of Joseph Hughes, deceased, to run on the east side of the old road, so as to intersect the same at or near the farm of William Hill; said court to be governed, in making said change, by the laws now in force concerning roads.

Approved November 24, 1851.

1851.

CHAPTER 31.

AN ACT amending the charter of the Maysville and Mountsterling Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act incorporating the Maysville and Mountsterling turnpike road company be so amended as not to restrict said company to any particular degree in the grade of said road, but to leave the same discretionary with the president and directors of said company.

Approved November 24, 1851.

CHAPTER 32.

AN ACT to change the State Road leading from Georgetown to Covington.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful to make any alteration in the state road, known as the Alphin road, leading from Georgetown to Covington; said alteration to begin at or near Eli W. Northcut's farm, in Boone county, and to pass through the lands of Moses McClure, J. H. Barker, T. M. Kyes, Alvin Kyes, Preston Cummins, and J. M. Wolf, in the town of Crittenden, in Grant county, where the same intersects the Georgetown and Covington turnpike road: *Provided, however,* that the said proposed alteration be made forty feet wide by the persons above named, prior to the closing of the present road.

Approved November 24, 1851.

CHAPTER 33.

AN ACT to incorporate Mason Lodge, No. 33, I. O. O. F.

Members incorporated.

Corporate name and powers.

May make by-laws, &c.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That J. R. Eader, W. C. Hutchison, Walter Warder, J. T. Wilson, John W. Williams, and Robert Caldwell, and their associate members of Mason Lodge, No. 33, independent order of odd fellows, in Mayslick, be and they are hereby created a body politic and corporate, by the name and style of Mason Lodge, No. 33, independent order of odd fellows, with perpetual succession; and by that name shall be capable in law of having and using a common seal, of suing and being sued, pleading and being impleaded, answering and being answered, and of defending and being defended, in all courts and elsewhere, as natural persons; and may ordain and put in execution such by-laws, rules, and regulations for its government, and the management of its affairs, and change and renew the same, as they may deem proper: *Provided,* they be not contrary to the constitution and laws of this state, and of the United States.

§ 2. That said corporation shall have power and authority to acquire and hold real and personal estate, not exceeding twenty thousand dollars in value; and, from time to time, if deemed expedient, may sell and convey the same, or any part thereof, and reinvest or dispose of the proceeds; and they may create a fund for the benefit of the widows and orphans of deceased members of the corporation, sufficient to yield an annual income not exceeding three thousand dollars, and make laws and rules for the management and distribution thereof.

1851.
May hold real estate.

Create a widow's fund.

§ 3. The said corporation shall have power to establish a school and a library, or either, and to acquire and hold for that purpose a fund, in the manner named in the second section of this act, for the support of the same, or either of them, sufficient to yield an annual income not exceeding five thousand dollars, and to appoint suitable teachers and stewards, and other necessary officers, and to remove the same at pleasure; and may ordain, execute, and change all laws, rules, and regulations, which they may deem necessary for the government thereof, not inconsistent with the constitution and laws of this state, or of the United States.

May establish a school and library.

§ 4. In the event of a dissolution of this corporation, its effects and property shall become the property of the grand lodge of Kentucky, of the independent order of odd fellows.

Disposition of property.

Approved November 24, 1851.

CHAPTER 34.

AN ACT to amend an act, entitled, an act to incorporate Odd-Fellows' Hall of Newport, Kentucky, approved February 25, 1848.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the president and directors of the odd-fellows' hall, of Newport, Kentucky, be and they are hereby vested with power to forfeit and annul the subscription of stock in said institution, of such person or persons who have failed to pay for such stock as they may have subscribed: *Provided, however,* that nothing in this act shall be so construed as to prevent said corporation from instituting suits and recovering judgments on any call or calls which they have made or may hereafter make, upon delinquent stockholders, for stock subscribed and not paid for in conformity to the charter and by-laws of said corporation.

Approved November 24, 1851.

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1851.

CHAPTER 35.

AN ACT to change the times of holding justices quarterly courts, in the county of Washington.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the time of holding the quarterly courts of the justices of the peace in Washington county, after the first day of January next, shall be held in the months of April, July, October, and February, instead of the months of March, June, September, and December.

Approved November 24, 1851.

CHAPTER 36.

AN ACT to change the time of holding the Quarterly Terms of the Pendleton County Court,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That after the 25th day of December, 1851, the quarterly terms of the Pendleton county court shall be held on the fourth Monday in February, May, August, and November, in each year, and continue from day to day until the business is completed.

Approved November 24, 1851.

CHAPTER 37.

AN ACT declaring Jenny's Creek and Grassy Creek navigable streams.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Jenny's creek and Grassy creek, in the county of Johnson, be and they are hereby declared navigable streams; the former as far up as the house of Martin R. Rice.

Approved November 24, 1851.

CHAPTER 38.

AN ACT to change the place of voting in Caldwell county, in District No. 4.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in district No. 4, in Caldwell county, be changed from the residence of Samuel Lester, and that all elections in said district shall hereafter be held at a house at the spring of Joseph Cherry, in said district.

Approved November 24, 1851.

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CHAPTER 39.

1851.

AN ACT to change the time of holding the Quarterly Courts of the Presiding Judge in Russell county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the time of holding the quarterly courts of the presiding judge of the Russell county court, be and the same are hereby so changed, that said courts shall hereafter commence on the fourth Monday in January, the first Monday in April, the fourth Monday in July, and the first Monday in October, instead of as heretofore

Approved November 24, 1851.

CHAPTER 40.

AN ACT to incorporate the Union and Beaver Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company may be formed, and created a body politic and corporate, by the name and style of the Union and Beaver turnpike company, for the purpose of making a turnpike road from Union to Beaver, in Boone county.

Company formed.

§ 2. The capital stock of said company shall be ten thousand dollars, to be divided into shares of twenty-five dollars each.

Capital stock.

§ 3. That books for the subscription of stock shall be opened—at Union, under the direction of the following persons as commissioners, Rev. Joseph C. Harrison, Morris Lassing, Charles S. Clarkson, N. A. Baker, and E. S. Clarkson; at Beaver, B. F. Bedinger, Jos. C. Hughes, S. G. Suddith, G. L. Noel, and Geo. M. Bedinger, or some one or more of them at each place, within twenty days after the passage of this act, or as soon thereafter as said commissioners, or a majority of them, at either place may direct; and they may continue the books open as long as they may think proper. The subscribers shall, in the books of the commissioners, enter into the following obligation, viz: We, whose names are hereunto subscribed, do respectively promise to pay the president and directors of the Union and Beaver turnpike company, twenty-five dollars for each share of stock set opposite to our names, in such manner and proportions, and at such times as shall be required by the president and directors of said company. Witness our hands this day of , 185 .

Books to be opened for subscription.

Contract to be signed.

§ 4. So soon as one-third of the amount is subscribed to the capital stock of said company, it shall be the duty of the commissioners named in the third section of this act, or one or more of them, to give notice in such manner as they may think proper, for a meeting of the stockholders, at such time and place as they may think proper to designate,

When they may organize.

1851.

Election of
president and
directors.Term of of-
fice.

for the purpose of electing a president and four directors ; and one vote shall be allowed for each share of stock ; and may be given by proxy ; and the president and directors shall continue in office for one year, and until their successors are duly elected. The times and places for all elections, after the first, shall be fixed by the president and directors for the time being, having due regard to the convenience of the stockholders ; and a majority of the board shall be competent to transact business.

Corporate
name and pow-
ers.

§ 5. So soon as said company is organized by the election of officers, the president and directors shall be a body politic and corporate, in fact and in law, under the name and style of the president and directors of the Union and Beaver turnpike company, and by that name shall have perpetual succession, and all the privileges and franchises incident to a corporation ; shall be capable of holding their capital stock, and the increase and profits thereof, and of taking and holding, by purchase or gift, all such lands, tenements, and hereditaments, real or personal property ; as may be necessary for the prosecution of their work, or the objects of the corporation ; they shall have power to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, in any court of law or equity, or elsewhere ; also to have and use a common seal ; and generally to do all or any act, matter, or thing which a corporation may lawfully do, to effect the objects for which this corporation was created.

Directors may
regulate the
width and grade
of road ; regulate
tolls, and en-
large capital
stock.

§ 6. Said president and directors shall fix and regulate the elevation and grade of said road, the width of the part thereof to be covered with stone ; shall designate the place for the erection of a gate ; may fix the rates of toll, regulate and change the same ; may enlarge the capital stock to such amount as they may deem necessary, and open subscriptions therefor, in such manner as they may direct, or they may apply the proceeds of such part of the road as may be completed to the completion of the residue ; and shall have power to erect a gate, after two miles of said road shall have been completed : *Provided*, that the rates of toll to be charged and exacted for travel on said road shall not exceed those charged and exacted on the Covington and Lexington turnpike road.

Directors may
cause surveys,
&c. to be made.

§ 7. That the president and directors, with their surveyors, engineers, artists, and chain carriers, are hereby authorized and empowered to enter in and upon the land and inclosures, public roads and highways, in, through, and over which said intended road may be thought proper to pass, and examine and survey the ground most proper for that purpose, and to examine the quarries, or beds of stone and gravel, and other materials necessary for the completion of said road ; and they shall locate said road on the most practicable route, having reference to subscrip-

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tion, distance, and ground, and cause a plat of the same to be made out and deposited with the treasurer of said company.

1881.

§ 8. It shall be lawful for the president and directors, with their superintendents, engineers, workmen, and laborers, with their tools and instruments, carts, wagons, and other carriages, and their beasts of draught or burthen, to enter upon the land, in and over, contiguous and near to which said intended road shall pass, having first given notice of their intention to the owners and occupants thereof, or their agents: *Provided*, that if the president and directors shall not agree with the owners of the land through which said road is proposed to pass, as to damages which said owners may sustain by said road passing through their lands; the president and directors shall apply to the Boone county court, or other proper court of Boone county, for a writ of *ad quod damnum* to assess the damages which may be sustained by the owners of the land; and the jury, in assessing the damages, shall take into consideration the advantages and disadvantages resulting to the party claiming damages by the establishment of said road; and upon the payment, or tender of the damages assessed, it shall be lawful for the president and directors to open and make such road; and to dig and carry away any stone, gravel, earth, or other material necessary for the construction or repairing of said road.

May enter on
lands, &c.

How lands
may be con-
demned; pro-
ceedings there-
on.

§ 9. That the president and directors shall determine the amount of call upon each share of stock, and the time of payment; and the president shall give reasonable notice thereof; and if any stockholder shall neglect to pay his proportion of stock so called for, for the space of thirty days after the time of payment, every such stockholder shall, in addition to the amount so called for, pay at the rate of one per cent. per month, for every delay of payment; and if he shall fail to pay the amount of call, and the penalty aforesaid, for the space of six months after the time such payment is required, he shall forfeit such share or shares to the corporation, together with the amount that shall have been paid thereon; whereupon, all his rights as a member of said company shall cease.

They may de-
termine calls on
stock.

Delinquent
stock; how col-
lected.

§ 10. The president and directors shall appoint a treasurer, and such other officers as they may deem necessary, who shall hold their offices for one year, and until their successors shall be appointed and qualified. The treasurer of said company, before he enters upon the duties of his office, shall give bond and security, in such penalty as the president and directors shall require, payable to them, conditioned to pay over any amount in his hands to the order of the president and directors.

Board may
appoint treas-
urer and other of-
ficer.

Treasurer shall
give bond.

Approved November 24, 1851.

LAWS OF KENTUCKY.

1851.

CHAPTER 41.

AN ACT to regulate the time of holding the Green County Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the Green county court be and he is hereby authorized to hold a county court in said county, on the third Mondays in the months of June and December, and also on the fourth Mondays in the months February and August, in every year, for the transaction of all business now authorized by law to be done in said county court.

Approved November 25, 1851.

CHAPTER 42.

AN ACT legalising the election of the Marshal of the town of Independence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the election of Aaron Striger to the office of marshal of the town of Independence, in the county of Kenton, by the qualified voters thereof, on the first Saturday in April, 1851, be and the same is hereby declared to be legal; and his official acts shall be as valid as they would have been if he had been elected at the time prescribed by law.

Approved November 25, 1851.

CHAPTER 43.

AN ACT to appropriate land warrants in the county of Knox.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall hereafter be the duty of the county court of the county of Knox to appropriate land warrants for the building and repairing of roads and bridges in said county, the price of which warrants may be discharged in labor; and when a report is made to the court by the surveyor of the road on which the appropriation shall have been made, by said court, that the amount of labor has been performed, then the person performing the labor shall receive his warrant in the usual way.

§ 2. That said court shall distribute the appropriations as near equal throughout said county as may be convenient.

Approved November 25, 1851.

CHAPTER 45.

AN ACT to increase and define the powers of the marshal of the town of Blandville, in Ballard county.

1851.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, it shall and may be lawful for the marshal of the town of Blandville, in any part of said county, to execute and return all writs and summonses, or other legal precepts issued by the police judge of said town, whether the same be of a civil, penal, or criminal nature.

Marshal may execute writs and other legal process.

§ 2. The marshal of said town shall also have full power to collect all fines and forfeitures assessed by the police judge thereof, whether the same be in favor of the commonwealth or the trustees of the town of Blandville, and shall be liable therefor; and upon a failure promptly to pay over the same, he and his securities may be proceeded against in the same manner, and subject to the same penalties, as defaulting constables now are.

Marshal shall collect fines, &c

Approved November 25, 1851.

CHAPTER 46.

AN ACT to amend the act, entitled, an act to incorporate the Maysville and Big Sandy Railroad Company, approved December 18, 1850.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the act, entitled, an act to incorporate the Maysville and Big Sandy railroad company, approved December 18, 1850, is hereby re-enacted from the date of the approval of this act, with the amendments and modifications herein made.

§ 2. That the first section of said act, incorporating the Maysville and Big Sandy railroad company, is hereby so amended as to authorize the commencement of the railroad therein authorized in or near the city of Maysville in the discretion of the board of directors of said company.

Board of directors may designate the point of commencement.

§ 3. That in addition to the counties of Mason, Lewis, and Greenup, and the corporate cities and towns therein, authorized by said act to subscribe stock in said railroad company, any other county, city, or town, in the state of Kentucky, may subscribe stock in said railroad company, on the same terms and conditions and under the same restrictions.

Stock may be taken at any point.

§ 4. That all the general provisions of the act incorporating the Maysville and Lexington railroad company, approved March 4, 1850, and of the act to amend said act, approved February, 17, 1851, so far as the same may be applicable, are hereby incorporated therein and made part of this act, for the benefit of the Maysville and Big Sandy railroad company.

§ 5. That if any county, city, or town in the state of Kentucky shall desire to subscribe stock in said Maysville

1851.

Under what
provisions stock
may be taken.

and Big Sandy railroad company, such county, city, or town shall have the privilege to subscribe stock therein, either under the provisions of this act, or under the provisions of the act to authorize the county of Fayette and city of Lexington to subscribe stock in railroad companies, approved January 25, 1851, as the authorities of such county, city, or town may select.

Number of di-
rectors.

President to be
chosen.

Five members
may constitute a
quorum.

§ 6. That the fourth section of said act incorporating the Maysville and Big Sandy railroad company is hereby so amended, that the number of directors in said company shall be nine instead of five, to be elected by the stockholders, as provided in said fourth section of said act, at such time and place as the commissioners named in said act, or a majority of them, may designate by public notice; that the directors, so elected, shall choose a president of the company, who may either be one of the directors, or any other stockholder in the company; that the president and directors shall constitute the board of directors, with full power to direct and control the entire business affairs and concerns of the company; and that when the president shall be chosen from the number of directors, five members of the board of directors shall be a quorum to transact any business; but if the president shall be chosen from the number of other stockholders, six members of the board of directors shall be required to form a quorum: *Provided*, that this section shall not be construed so as to prohibit a less number of directors exercising any executory or ministerial functions in carrying out measures previously sanctioned by a quorum or full meeting of the board of directors.

May receive
grants of land
and bonds of
corporations.

§ 7. That the said Maysville and Big Sandy railroad company may receive grants of land from congress, and subscriptions of stock by individuals, counties, cities, towns, railroad companies, and other corporations of other states, as well as of the state of Kentucky, in aid of the construction and operation of said railroad; and may also receive the bonds of such corporations, and procure their guaranty or indorsement of the bonds of said railroad company, issued in aid of the construction and operation of said railroad, and may negotiate, sell, and assign the same, on such terms and conditions as the board of directors may deem advantageous to the interests of the company.

Board of di-
rectors may fix
rates of toll
within certain
districts.

§ 8. That whenever any portion of said railroad shall be completed, and in readiness for business, such portion thereof may be put in operation under authority of the board of directors, on such terms, for the use thereof, or such rates for transporting passengers or freight thereon, as the board of directors may prescribe, not exceeding the maximum rates authorized by the fifteenth section of the act incorporating the Maysville and Lexington railroad company: *Provided*, they make special contracts for special services

on such terms and conditions as the parties thereto may agree upon.

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Approved November 25, 1851.

CHAPTER 47.

AN ACT to amend an act, entitled, an act to incorporate the Trustees of the Kentucky Baptist Education Society, approved January 15, 1829.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That each and every individual who, since the first day of January, 1840, has donated and paid into the treasury of the trustees of the Kentucky Baptist education society the sum of one hundred dollars, and each and every person who hereafter shall donate and pay into the treasury aforesaid the sum of one hundred dollars, shall be and they are hereby constituted a body politic and corporate, to be known and designated by the name and style of "the Kentucky Baptist education society;" and by that name shall have perpetual succession and a common seal, with power to change and alter said seal at pleasure. As a body corporate, they shall have full power to originate and carry into effect such measures as, in their judgment, will best promote the interest of Georgetown college, and the cause of collegiate education generally.

Who to constitute a body corporate and politic.

§ 2. That it shall and may be lawful for said corporation and their successors, and they are hereby vested with full power to make such by-laws, rules, and ordinances for their own organization, government, and the transaction of business, as they may think necessary, not being repugnant to the constitution and laws of the United States or the state of Kentucky, and to nominate, appoint, or elect all such officers as they may deem necessary for the benefit of said corporation, and the carrying into effect its ends and purposes.

May make and ordain rules of government, &c.

§ 3. The meetings of this corporation for the transaction of its business, shall be held annually, in Georgetown, Kentucky, during the commencement week of Georgetown college, and as much oftener as they may think proper, at the same place.

Annual meetings to be held.

§ 4. Twenty-five members of this society shall constitute a quorum to do business at its annual meetings aforesaid. At all other meetings it shall require twenty members to constitute a quorum.

§ 5. Said corporation shall, in a book or books to be provided for that purpose, keep a full and fair record of its acts and proceedings, by proper officers, to be by them appointed for that purpose.

Record of proceedings to be kept.

§ 6. Said corporation, at its annual meetings aforesaid, shall have the sole power, except as herein otherwise provided, to nominate, elect, and appoint "the trustees of the

Trustees elected to be divided into classes.

1851.

Kentucky Baptist education society." They shall, at their first annual meeting, nominate, elect, and appoint all the trustees aforesaid, dividing, as equally as practicable, the whole number into four classes, one of which classes shall be elected and appointed for the term of one year; another for the term of two years; a third for the term of three years; and a fourth for the term of four years. At each subsequent annual meeting said corporation shall nominate, elect, and appoint, for the term of four years, persons to fill the vacancies of the class whose term of office shall expire or have expired at said meetings, and shall also nominate, elect, and appoint a person to fill any vacancy in any of said classes, for the term remaining to be filled.

How trustees
may be chosen.

§ 7. If said corporation shall, at any time, fail to elect and appoint trustees, or fill vacancies, as herein provided for, then said trustees shall be elected and appointed, and said vacancies shall be filled, by the trustees of the Kentucky Baptist education society remaining in office, two-thirds thereof concurring in such election and appointment.

Trustees to re-
port state of
condition.

§ 8. It shall be the duty of said trustees, at the annual meeting of the Kentucky Baptist education society, to report to them, fully and in detail, the condition of the college, and such other matters as may be deemed expedient or may be required by said society hereby incorporated.

§ 9. Nothing in this act, (which is passed at the instance and by the request of "the trustees of the Kentucky Baptist education society,") is intended to change, alter, or repeal, or shall change, alter, or repeal the powers, duties, rights, and privileges of said trustees, except as to the mode and manner of their election and appointment, their term of office as provided for in this act, and the duties herein specially prescribed.

Approved November 25, 1851.

CHAPTER 48.

AN ACT to amend an act, entitled, an act to incorporate the Georgetown and Lemon's Mill Turnpike Road Company, approved March 24, 1851.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the president and directors of said company to level, grade, and construct the road contemplated to be made by the act to which this is an amendment, twenty-five feet in width, and to macadamize that portion thereof to be covered with stone, not less than ten feet in width; or they may grade, construct, and macadamize said road the widths directed by said act, as they may determine and direct.

Approved November 25, 1851.

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CHAPTER 49.

1851.

AN ACT to require the County Court of Bourbon County to subscribe to the stock of the Covington and Lexington Railroad Company.

Whereas, an election was held in the county of Bourbon; at which the question, whether one hundred thousand dollars in bonds of the county should be subscribed to the capital stock of the Covington and Lexington railroad company, was submitted to the voters of said county, and a large majority of the vote was in favor of said subscription. Wherefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the county court of Bourbon county be authorized, and it is hereby required, to subscribe one hundred thousand dollars to the capital stock of the said Covington and Lexington railroad company, to be paid and discharged by the issue of that amount of the bonds of Bourbon county in three equal gales, the first on the requisition of the president and directors of said company, the second in one year, and the third in two years therefrom.

County may subscribe to the stock.

Amount; how to be paid.

§ 2. The bonds hereby authorized, shall be issued on the order of the county, each bond for such amount as the president and directors of said company may name, to run for a period not exceeding thirty years, and bear interest at the rate of six per centum per annum, payable semi-annually, in advance, at any point in the United States that said company may stipulate for, in the sale of said bonds. Each bond to be signed by the presiding judge of said court, and to be countersigned by the clerk; and the seal of his office to be affixed thereto; and its amount, date, and number to be entered on the record.

Bonds to be issued on order of county.

§ 3. That the said county court of Bourbon county shall punctually pay the interest on said bonds in advance as it may fall due, until the stock herein authorized to be subscribed shall be entitled to draw dividends; and then the president and directors of said company shall, *ex officio*, apply said dividends, or such amount thereof as may be necessary, to the payment of any interest due on said bonds; and any excess of dividends shall be paid over to such person, or officer, as the said county court may appoint to receive the same. And the said county court shall, at all times, pay any deficiency in the amount of interest on said bonds, in consequence of the insufficiency of the dividends aforesaid, or from any other cause.

County court to pay the interest falling due.

§ 4. Said county court shall, from time to time, make due and ample provision to meet and pay all interest upon said bonds; and to that end shall have power to hold its sessions at any time, and shall levy a tax on the *ad valorem* principle, upon all property, money, choses in action, and other rights, within the county of Bourbon, which may be subject to be assessed to pay tax to the commonwealth. The whole property and the good faith of the county be-

County court to make provision for payment of interest.

1851.

ing pledged for the payment of the interest and principal of said bonds; and the county court aforesaid, being subject to mandamus, or other appropriate proceeding; at the instance of the president and directors of said company, or the holder of any of said bonds, to compel it to the performance of all its duties under this act.

Persons paying,
entitled to
certificate of
stock.

§ 5. That all persons paying any tax under this act, shall be entitled to a certificate for the amount thereof, less the commission for collection, from the officer or officers to whom it may be paid, addressed to the president and directors of the company, which certificate shall be assignable. And any person holding such certificates, or, in addition thereto, paying to the treasurer of said company such sum as will, together, make a share or shares, shall be entitled to the proper certificate of capital stock.

County court
to appoint an as-
sessor and col-
lectors.

§ 6. The said county court shall, if necessary, have power to appoint an assessor or assessors, to list property, &c., to be taxed under this act, or may use the commissioners' books appertaining to the state revenue; to appoint collectors and treasurers, and to take from them bonds with ample security, conditioned for the faithful discharge of their duties under this act; and to make all proper and necessary auxiliary orders and regulations concerning them: *Provided*, that no tax accounts shall be placed in the hands of a collector for collection, until the expiration of three months from the time it may be assessed; and during that period, all persons may pay to the county treasurer the amount of his or her tax, without further charge; and those failing so to pay, shall pay such commission as the said county court may, by its order, assess on them. And the clerk of the county court shall, within a reasonable time after the court shall have entered up its order to that effect, deliver to the county treasurer a copy of the book by which the property owners are assessed for the payment of tax; which book, at the end of three months from the time of the assessment, shall be delivered by the treasurer to the collector, with entries of the proper credits in favor of all persons who may have paid their tax.

Bonds to be
executed to the
president and
directors of the
Covington and
Lexington com-
pany.

§ 7. The bonds hereby authorized, shall be executed, payable to the president and directors of the Covington and Lexington railroad company, and shall be assignable by the proper indorsement of said company. And as further means and assurance for their redemption, both principal and interest, any dividends to which the county of Bourbon may be entitled to receive under this act, as they are paid over by said company, shall be, with all convenient speed, invested in some good stock, and be held and inviolably appropriated to the redemption of said bonds.

Approved November 26, 1851.

CHAPTER 50.

1851.

AN ACT to charter the Louisville and Covington Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James Guthrie, Virgil McKnight, William E. Ewing, A. O. Smith, and George J. Rowland, of the city of Louisville; James Wilson and Thomas A. Rodman, of the county of Oldham; William Campbell and Nathan Parker, of the county of Trimble; George D. Dixon and Daniel Brannin, of the county of Henry; William B. Winslow and William Root, of the county of Carroll; David W. Cull and William C. Martin, of the county of Owen; Edmund W. Hawkins and John T. Robinson, of the county of Gallatin; Opie J. Lindsay and James O'Hara, of the county of Grant; Charles Chambers and M. M. McManama, of the county of Boone; John W. Stevenson, P. S. Bush, and C. A. Withers, of the county of Kenton; and Jacob Strader and Reuben Springer, of the city of Cincinnati, be and they are hereby appointed commissioners, under the direction of any two of whom subscriptions may be received to the capital stock of the Covington and Louisville railroad company, hereby incorporated; and they may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions to the capital stock of said company, after having given such notice of the times and places of opening the same as they may deem proper; and after the first opening of said books, they may continue them open for such time as they may deem expedient: *Provided*, that any subscription tendered at any time and place other than advertised by said commissioners, if accepted by them, shall be as valid against the party subscribing as if received at the time and place advertised; and if any of said commissioners shall die, resign, or refuse or neglect to act, during the continuance of the duties devolved on them by this act, another may be appointed in his stead, by the remaining commissioner or commissioners, or a majority of them, of the county for which said commissioner, not acting, was appointed.

§ 2. That the capital stock of said Covington and Louisville railroad company shall be one million of dollars, in shares of fifty dollars each, which may be subscribed for by any individual or corporation; and as soon as three thousand shares of said capital stock shall have been subscribed, the subscribers of said stock, their successors and assigns, shall be and they are hereby declared to be incorporated into a company, by the name of the Covington and Louisville railroad company; and by that name shall be capable, in law, of purchasing, selling, holding, leasing, and conveying any real estate, not exceeding two thousand acres, and real, personal, and mixed estate, so far as the same may be necessary for the purposes of this

Commissioners appointed to receive stock.

How books to be opened and stock taken.

How and when successors are to be appointed.

Amount of capital stock, & how divided.

Style of the corporation.

1851.

incorporation, and no further; and the said Covington and Louisville railroad company shall have a perpetual succession and a common seal, which they may alter, abolish, or renew at pleasure; and may, in law, sue and be sued, and shall have, enjoy, and exercise all the rights, powers, and privileges which other corporations may lawfully do,

Amount to be
paid at time of
subscribing.

§ 3. That at every subscription of stock, there shall be paid to the commissioners the sum of one dollar on every share subscribed; and the residue thereof shall be paid in such installments and at such times, as may be required by the board of directors of said company: *Provided*, that no payment shall be demanded until at least thirty days notice of such demand shall have been given, by a publication in one or more of the newspapers published in Covington and Louisville; nor shall any subscriber or stockholder be required to pay more than fifty per cent. of their said stock in any one year; but, if the exigencies of the company should require the payment of the stock to be made more rapidly than is provided for herein, or should the president and directors, or a majority of them, consider it expedient, for the purpose of aiding the stockholders, or hastening the completion of the contemplated road, it shall be lawful for them to borrow, on the credit of said company, a sum of money not exceeding five hundred thousand dollars; and the president and directors are hereby vested with full power and authority to issue and sell the bonds of said company, in such form and to such amounts, and payable at such times and places, with interest yearly or half yearly, as they shall find convenient and proper, and to a sum not exceeding five hundred thousand dollars, at such rate of discount as they may deem expedient; and secure the same by a deed of trust on said road; and all the property, assets, and effects of said company, conditioned to the punctual payment of the interest on said bonds as the same may fall due, and the principal when it shall become due; and with authority for the trustee to sell said road, and all said property and effects, to raise said interest and principal, if not punctually paid, on such terms and notice as is declared in the deed of trust, without suit and decree, or foreclosure; and to enable said company or corporation to guarantee the punctual payment of the interest and principal of said bonds, and if so guaranteed, the guarantors shall be entitled to all the benefits of the deed of trust, made to secure said bonds, to the same beneficial extent the holders of said bonds shall be entitled: *Provided, however*, that should said road be sold under said deed of trust, the purchaser shall be entitled to all the rights and privileges of this charter; and of any amendments which may be made thereto, and subject to all the obligations and restrictions of the same.

President and
directors au-
thorized to bor-
row money.

President and
directors may
mortgage the
property.

§ 4. That if, upon collecting together the capital stock,

Purchaser
equal rights
with original
holders.

according to this act, there appears a larger subscription, in the aggregate, than the whole capital stock herein provided, the said commissioners shall proceed to strike off, *pro rata*, from the shares of the subscribers holding the largest subscriptions thereto, until the aggregate subscription shall be reduced to the capital stock herein provided.

§ 5. That if any of the stock created by this act shall remain unsubscribed until after the election of the president and directors of said company, the said president and directors may open books and receive subscriptions, by themselves or such agents as they may appoint; and should the said president and directors deem it expedient for the purposes of this incorporation, they may increase said capital stock to any sum not exceeding three millions of dollars; and the subscribers of stock to said board, or their agents, and the subscribers of any such increased capital stock, shall hold and enjoy all the rights and privileges of any original subscribers to the capital stock of said company.

§ 6. That the said Covington and Louisville railroad company shall have the same right and privilege of prosecution, and any person or persons shall be liable to the same penalties and forfeitures for injuries, impediments, obstructions, and hindrances, done and committed upon the road or other property of said company, or otherwise to the prejudice of said corporation, as are provided in the laws incorporating and amendatory thereto, of the Louisville and Frankfort railroad company, or of any and all other railroad companies incorporated in this commonwealth.

§ 7. That when three thousand or more shares shall have been subscribed to the capital stock, said commissioners, or a majority of them, shall call a general meeting of the subscribers, at such time and place as they may appoint, and shall give twenty days notice thereof in some one or more of the newspapers published at Covington and Louisville; and at such meeting the commissioners shall lay the subscription books before the subscribers then and there present; and thereupon the subscribers, or a majority of those present, shall have the power to elect, from among the stockholders, seven directors to manage the affairs of said company; and those seven directors, or a majority of them, shall have power to elect a president of said company, either from among the directors or stockholders; and in such election, and all other elections where stockholders are allowed one vote for each share owned or held by him, her, or it; and any stockholder may depute, in writing, any other person to vote and act as his, her, or its proxy; and the commissioners present shall appoint the judges of the first election of directors; and the president and directors aforesaid shall hold their offices until their successors shall be elected.

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Capital stock may be diminished.

President and directors authorized to re-open books for subscription of stock.

May increase capital stock.

Company may prosecute for damages sustained.

When president and directors to be chosen.

Number of votes each stockholder entitled to.

May vote by proxy.

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President and directors to be chosen annually.

Vacancies in board may be filled.

Treasurer; how chosen.

Road to be by nearest & most practicable route.

May unite with the Louisville & Frankfort road.

Power to take and use materials for constructing road.

How right of way to be obtained.

County court to record grant, &c.

§ 8. That the president and directors shall be chosen annually by the stockholders of said company, at such place as the president and directors may designate, on the first Monday in June of every year; and the president and directors may fill any vacancy in their board: *Provided*, that all elections which are to be made, may be made in thirty days thereafter, upon notice being given.

§ 9. That the president and directors of said company shall have power to elect a treasurer, and any other officers or agents they may deem proper and necessary, and may require of their treasurer, or any other officer or agent, such bond, in such penalties as they may think proper, upon which said bond, recovery may be had for a breach of the conditions thereof.

§ 10. That the president and directors of said company are hereby vested with all the powers and rights necessary to the construction of a railroad from Covington to Louisville, by the nearest and most practicable and expedient route, by them determined and selected, not exceeding sixty feet in width, with as many sets of tracks as they may deem necessary: *Provided*, the said president and directors, or a majority of them, shall have full power, should they think best, to unite this road with the Louisville and Frankfort railroad; and the said company, their agents, engineers, &c., may enter upon, use, and excavate any land which may be wanted for the site of said road and its use, or for any other purpose necessary or useful in the construction or repair of said road, or its works and appurtenances, and may take and use any earth, timber, gravel, stone, or other material which may be necessary or useful for the construction, completion, or repair of said road, and may construct tunnels and build bridges: *Provided*, that in building any bridge or bridges, it or they shall be so constructed as not to obstruct the free navigation of any navigable stream.

§ 11. That upon application of said company to the county courts of the several counties through which the road may pass, such court shall appoint a civil engineer and two impartial commissioners, whose duty it shall be to take from the owners and proprietors of land, and from those having an interest therein, and through which it is proposed the road shall pass, a grant of the right of way through the same; and said engineer and commissioners, or either of them, shall have the same power to take acknowledgments of the grantor that clerks of the county courts now have; also, to take privy examination of married women, and certify the said acknowledgments; and it shall be the duty of the county court clerk, to receive and record the grant with the certificate; and said grant, so certified and recorded, shall vest in the company all the rights intended to be vested by the terms of the grant; and

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the grants to the right of way may include the fee on the granted lands, and the right to stone, earth, gravel, and timber on the granted or adjoining lands, for the making or repair of said road.

§ 12. That in all cases where the owners and proprietors of land, from any cause, shall fail or refuse to grant the right of way, or land for depots, shops, turnouts, bridges, &c., it shall be lawful, and the duty of said engineer and commissioners, or any two of them, from their own view, and such proof as shall be presented, to value the land required for the road separately, and the advantage the road will be to the proprietor of the adjoining lands separately, and the disadvantage to the adjoining lands separately, and make report of the same, together with a map of the road through such county, to the clerk of the county court of such county, with the names of the owners of such land, and whether they are residents of the state or non-residents, and infants and adults; and it shall be the duty of the clerk to issue a summons against all such owners to show cause why the grant of the right of way shall not be made on the payment of the balance, if any, of the value of the land so reported; and upon the service of said summons upon the owner, if in the county, and if not, his agent in the county, if he have one, ten days, the county court shall have jurisdiction, on said report, to order the balance, if any, of the assessed value of the land to be paid, and a grant of the right of way to be executed to the company by a commissioner to be appointed by the court for that purpose: *Provided*, that if the owner is out of the county, and have no known agent in the same, it shall be lawful to send the summons to any county in the state where the owner is; or his authorized agent may be; and if such owner be a non-resident of the state, and have no known agent, the court shall make an order of appearance to a named day, not less than four weeks, and appoint an attorney to correspond with the owner and defend for him; and when the owner is an infant, the court shall appoint a guardian *ad litem* to appear for such infant and make defense; and it shall be lawful for the court to take up the case as to any one owner who is before the court, without waiting until all are served.

§ 13. That it shall be lawful for the company or for the owner to traverse the report, or for both to traverse it, and claim a jury to value the land required for the road, and to assess the damages to the adjoining lands, and the advantages it will be to the same, all which shall be done separately; and thereupon, the court shall cause a jury to be impaneled to try the traverse or traverses, in open court, and under its discretion, and to order the damages to be assessed by the jury to be paid, and also the damages to the adjacent land, first deducting therefrom the value of

When refused how right of way, &c., to be obtained.

How non-resident's right may be obtained.

Report may be traversed.

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the estimated advantage the road will be to the same; and the court shall have the right to grant to either party a new trial for the same causes that new trials are granted in suits at law; and either party may appeal or take a writ of error, but no appeal or writ of error shall prevent the company from proceeding to construct the road; nor shall any thing in this act be so construed as to prevent the company from contracting for the right of way, and stone, gravel, earth, or timber needed for the construction or repair of said road.

When business
on road may be
commenced.

§ 14. That so soon as the company shall have completed five miles of said road, at any one point, continuously, they may commence and prosecute their business as though the whole work was completed; and they shall have the right and power to charge for toll and the transportation of persons and property of any kind along said railway, any sum or rates the president and directors may establish: *Provided*, the rates do not exceed those now allowable and chargeable, by law, by the Louisville and Frankfort railroad company.

Rates of toll.

Dividends to
be declared.

§ 15. That the said president and directors shall annually, or semi-annually, declare and make such dividend as they may deem proper of the net profits arising from the resources of said company, after deducting expenses; and that they shall divide the same among the stockholders, in proportion to their respective shares.

May enact
rules for their
government.

§ 16. That the president and directors shall have power to enact such rules, regulations, and by-laws, not incompatible with the laws of this commonwealth or of the United States, that they may deem necessary and proper for the government of said corporation, the regulation of duties and responsibilities of officers and agents, directing the manner of settling accounts against said corporation, and prescribing the manner and form in which transfers shall be made of capital stock in said company.

Meeting may
be called at any
time.

§ 17. That a general meeting of stockholders of said company may be called, at any time during the interval between the annual meetings, by the president and directors, or a majority of them, or by the stockholders owning at least one fourth of the whole stock subscribed, upon giving thirty days public notice of the time and place of holding the same; which shall be at some place in Covington or Louisville, named in the advertisement; and when any such meetings are called by the stockholders, such notice shall specify the objects of the call; and if, at any such called meetings, a majority, in value, of the stockholders are not present, in person or by proxy, such meeting shall be adjourned from day to day, without transacting any business, for any time not exceeding three days; and if, within said three days, a majority, in value, do not then attend, such meeting shall be dissolved.

Objects of call
to be specified.

§ 18. That at the regular meetings of the stockholders of said company, it shall be the duty of the president and directors in office for the preceding year to exhibit a clear and distinct statement of the affairs of said company; that at any called meeting of the stockholders, a majority, in value, of the whole stock subscribed being present, a majority, in value, of the attending stockholders may require similar statements from the president and directors, whose duty it shall be to furnish them when required; and that at all general meetings of the stockholders, a majority, in value, of all the stockholders in said company may remove from office the president or any of the directors of said company, and fill up the vacancy or vacancies thus created, in the same way and to the same extent that they would do at their stated meetings.

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Condition of
the affairs to be
made known.

§ 19. That it shall and may be lawful for said company to unite this road with any other road, upon such terms and conditions as they may agree; and to branch said road, by erecting tributary roads to any point within this commonwealth, upon the same terms and conditions, and with the same rules and restrictions herein provided; and it shall and may be lawful for any other railroad company to unite with this road at any point they may elect, provided they do no injury to works or property of this corporation; and this company shall not charge such intersecting company a greater toll and transportation price for goods or passengers brought on the road of such intersecting company, than the equal rates, *pro rata*, charged on this road from end to end.

May unite with
any road or
branch it.

Approved November 28, 1851.

CHAPTER 51:

AN ACT to allow the County Court of Franklin to subscribe stock in turnpikes, and for other purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county court of Franklin county is authorized, hereby, to subscribe, in its corporate character, any sum of money not exceeding fifty thousand dollars, and to pay the same in the bonds of said county, not having more than thirty years to run, or to pay part in bonds and part in money, raised by tax on the real and personal estate assessed in the county for revenue purposes, to aid in the construction of bridges and turnpike or plank roads in said county: *Provided*, that no subscription shall be made by the county court of Franklin, until the question and terms of subscription shall have been sanctioned by a majority of the qualified voters of said county, cast on submission of the question to them on a day fixed by the county court for the purpose; and said county court

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shall appoint judges and other proper officers to take and report the vote.

Approved December 1, 1851.

CHAPTER 52.

AN ACT to incorporate the Versailles Fire, Life, and Marine Insurance Company.

Corporators' names.

Corporate name.

Duration of charter.
Corporate powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That David Thornton, James H. Shouse, Tarlton Railey, John L. Barclay, John B. Perry, U. Turner, John N. Markham, Richard D. Shipp, and William H. Terrill, together with those who may hereafter become stockholders, as hereinafter directed, shall be and they are hereby created and made a corporation and body politic, by the name and style of the president and directors of the Versailles, fire, life, and marine insurance company, and shall continue in office until the first day of January, 1852; and by that name are hereby made capable, in law, to have, purchase, receive, possess, enjoy, and retain, to themselves and their successors, lands, tenements, rents, hereditaments, goods, chattels, and effects, to an amount not exceeding, in the whole, one hundred thousand dollars; and the same to sell, grant, demise, alien, and dispose of; also, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity in this commonwealth, or elsewhere; also, to make, have, and use a common seal, and the same to break, alter, or renew at pleasure; also, to ordain, establish, and put in execution such by-laws, ordinances, and regulations, as shall be deemed necessary and convenient for the government of of said corporation, which may not be contrary to law; and generally to do and execute all and singular the acts, matters, and things that a corporation may rightfully do in the premises.

Books for subscription of stock to be opened.

Capital stock; how stock to be secured.

When calls are to be made.

§ 2. That the persons named in the first section, or any three of them, shall open books of subscription for the stock in said company, which stock shall consist of one thousand shares of one hundred dollars each, payable in lawful money of Kentucky; and at the time of subscribing they shall have a right to demand and receive five dollars on each share, and to have the residue secured to the satisfaction of the corporation, payable in six months; which obligations may be renewed from time to time, either for the whole, or such part as the president and directors may determine. And it shall be the duty of the president and directors to give at least thirty days' notice of any call they may think it expedient to make, and in case of failure of any stockholder to meet such call, or to secure the remainder, as aforesaid, it shall be lawful for the president and

directors to sell such delinquent shares, and transfer the same to the purchaser, or declare them forfeited to the company, together with all previous payments thereon. No transfer of stock shall be deemed valid and complete, so long as the person transferring the same shall be indebted to said company, until the amount for which he is indebted shall be secured to the satisfaction of the president and directors; and the stock of every stockholder shall be held as collateral security for the payment of whatever sum he may be indebted to said company, by notes for stock or otherwise.

§ 3. That the shareholders shall meet at the place of opening books for the subscription of stock in said company, on the first Saturday in December, 1851, or as soon thereafter as a majority of the individuals named in the first section of this act may deem expedient, at the office of said company, and on the first Saturday in December in each year thereafter, and elect a president and six directors, who shall continue in office until the first Saturday in December of the ensuing year, and until their successors shall be duly elected, of which elections previous notice shall be given in one or more newspapers printed in Lexington or Frankfort, at least two weeks; and in case of the death, resignation, or removal of the president or any director, the remainder of said board may fill such vacancy or vacancies, for the residue of the year; and no person shall be chosen a director who does not own five shares of stock; and, in all elections by the shareholders, each share, to the number of five, shall be entitled to one vote, and every three shares thereafter, owned by the same person, shall entitle him to one additional vote; but no person who is not a resident of the state of Kentucky shall have a vote, and no shareholder shall have a vote at any election, after the first, for president and directors, unless he shall have been the owner of the stock three months prior to such election, by a regular transfer upon the books of the company; and shares may be voted on by the executor or administrator of the deceased owner, or by proxy.

§ 4. That the president and directors for the time being shall have power to appoint such officers and agents under them, and at such places as shall be necessary for executing the business of said company, and to allow such compensation as may be agreed upon, and to require and take bond and security for the faithful discharge of their respective duties and trusts. And the said president and directors shall have power to make by-laws and ordinances to govern the corporation, and may repeal, alter, and amend them; and the president and three directors shall constitute a quorum for the transaction of business, or four directors, without the president, one of whom shall be chosen as president for the time being.

1851.

Forfeited stock may be sold.

Lien retained by the company on the stock to secure debt due.

When directors are to be elected.

Term of office.

Vacancies, how filled.

Qualification of directors.

Directors may appoint other officers and require bonds to be executed.

May make by-laws, &c.

1851.

Business of the
company.

§ 5. That the president and directors, for the time being, shall have power and authority, in the name of the company, to make insurance at such rate of premium, or interest, as may be agreed upon by the parties, upon buildings, furniture, machinery, goods, wares, and merchandise, of every description, against fire, in town and country; and, also, to make all kinds of insurance on every description of property, transported by land or water, within the United States; and, likewise, to make insurance on lives, by sea or water, or on shore, and to contract for, grant, and sell annuities, and to make all kinds of contracts in which the casualties of life or property are involved; and every such contract, bargain, agreement, or policy, to be made by the said corporation, shall be in writing or print, and shall be signed by the president, and attested and signed by the secretary or clerk, who may be appointed by the president and directors for that purpose.

Semi-annual
dividends to be
declared.

When dividends
shall not be de-
clared.

§ 6. That it shall be the duty of the president and directors, on the first Saturday in December and June of each and every year, to make a dividend of so much of the profits of the said corporation as to them, or a majority of them, shall appear advisable; and in case of any loss or losses, whereby the capital stock of the corporation shall be impaired or lessened, no subsequent dividends shall be made, until a sum equal to such diminution, and arising from the profits of said corporation, shall have been added to the capital.

Not to engage
in banking.

When they
may commence
business.

May loan out
part of capital
stock.

§ 7. The said corporation shall not issue notes, or bills of credit, nor in any manner engage in the business of banking, otherwise than in the sale or purchase of bank stock; nor shall said corporation commence business, or grant any policies of insurance, until three hundred and fifty shares are subscribed and paid for, or secured to be paid, as provided for in the second section; and so much of the capital stock of said company as may not be permanently invested, may, at the discretion of the president and directors, be loaned on promissory notes, at a discount not exceeding that authorized to be made by the banks incorporated by this commonwealth, and at no greater rate of discount, without a forfeiture of the whole debt.

Shall promptly
pay all losses in-
curred.

Proviso.

§ 8. That when said corporation shall be notified of any loss sustained, or incurred, on any policy of insurance granted or issued by the same, it shall be the duty of said corporation to pay the amount so lost, or incurred, on such policy, within sixty days after being notified: *Provided*, there shall have been no violation of the condition of the policy on the part of the insured: *Provided*, that no dividend shall be made so as to lessen the amount of the capital stock paid in or secured by stock notes; and if any dividend shall be made which lessens the amount of the

capital, the holder of the stock receiving such dividend, shall be liable to pay back the same to any creditor.

1851.

Approved December 2, 1851.

CHAPTER 53.

AN ACT to create the office of Marshal of the town of Hartford.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a marshal for the town of Hartford shall be elected by the qualified voters residing within the limits thereof, in the same manner as the police judge is now elected. The first election for said officer shall be held on the last Saturday in December, 1851; the second election on the third Saturday in July, 1853; and thereafter, on the third Saturday in July every two years. Said marshal shall hold his office until his successor be duly elected and qualified; and in case a vacancy shall occur, it shall be filled in the same manner as a vacancy in the office of police judge of the town of Hartford.

A marshal to be elected by the citizens.

When elected.

§ 2. That the marshal of said town shall have the same power and authority, be subject to the same penalties, and receive the same fees as constables are entitled to. He shall execute and return all writs to him directed by the police judge of the town of Hartford, the presiding judge of the Ohio county court, or any justice of the peace within the limits of said county, of either a civil or criminal nature; and may execute any notice which might be lawfully executed by a constable. He shall be a conservator of the peace; and it shall be his duty to enforce the by-laws and ordinances of the trustees of the town of Hartford. He shall execute a bond, with good surety, in the Ohio county court, in the same penalty and with the like conditions to a constable's bond, which shall be filed in the office of the clerk of said county court, and upon which any person or persons aggrieved may bring suit in the same manner and for the same offenses that suit may be brought upon a constable's bond; and before entering upon the duties of his office, he shall take the same oath required by law for constables to take.

His powers, duties, and fees.

Shall execute bond and take an official oath.

Approved December 2, 1851.

CHAPTER 54.

AN ACT to establish the town of Duncansville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a town, to be called and known by the name of Duncansville, shall be and is hereby established, on the lands of Abraham B. Voris and others, on

Town established.

1851.

Commission-
ers to lay off
town.Plat to be re-
corded.Title of the
lots vested in
trustees.Trustees to
dispose of the
lots.Trustees to ap-
point a clerk &
marshal.Vacancy in
trustees, how
filled.Treasurer to be
appointed and
execute bond.

the road leading from Harrodsburg to Bloomfield, where the road from Salvisa to Springfield crosses said road.

§ 2. That Henry Gray, A. B. Voris, Matthew T. Duncan, Henry W. Buckner, and John R. Duncan, and their successors in office, be and they are hereby appointed trustees, for the purpose of laying off said town into lots, streets, and alleys, and fixing its limits and boundaries; a plat of which they shall make out and cause the same to be recorded in the office of the clerk of the Mercer county court. The title of said lots, streets, and alleys, when so laid off, is hereby vested in said trustees, and their successors in office; and they, or a majority of them, shall have power to dispose of said lots at public auction, at such times and places as they may deem expedient, having duly advertised the time and place of said sale. The bonds for the purchase money for said lots shall be payable to said trustees, and collected by their treasurer, and paid over to the several persons owning said land, according to their respective interests therein. Said trustees, or a majority of them, or their successors in office, shall convey the title of said lots to the purchasers thereof, or to the persons entitled to receive the same. Before paying over the proceeds of the sale of said lots, said trustees shall deduct therefrom all the expenses incident to laying off said lots, &c., and the sale and conveyance of the title to the same.

§ 3. Said trustees, or their successors in office, shall have power to appoint a clerk and marshal of said town; to keep a record of their proceedings, and make such by-laws and regulations respecting the government of said town as they may deem expedient, not inconsistent with the constitution and laws of this commonwealth.

§ 4. Should a vacancy occur in the office of trustee, a majority of those remaining concurring therein, may elect a suitable person or persons, from time to time, to fill such vacancy or vacancies, until otherwise directed by law.

§ 5. Before the purchase money is collectable, the trustees shall appoint a treasurer, who shall give bond, with surety, payable to the trustees, in the penalty of one thousand dollars, conditioned for the faithful performance of his duties; which bond may be sued on by any person aggrieved by any breach of duty of the treasurer. There shall not be more than fifty acres included in the limits of said town.

Approved December 2, 1851.

CHAPTER 55.

1851.

AN ACT incorporating the Newport and Cincinnati Bridge Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Robert Chalfant, Elliot H. Pendleton, P. B. Manchester, Charles Cassily, Henry H. Goodman, Henry H. Southgate, and James Bryson, of the city of Cincinnati, Ohio, and Jacob Hawthorn, H. H. Mayo, H. C. Gasaway, Daniel Wolfe, Isaiah T. Hayman, John Sebastian, William M. Hawkins, Edward L. Southgate, and George Fearons, of the city of Newport, with their associates, be and they are hereby created a body politic and corporate, by the name of the Newport and Cincinnati bridge company, for the purpose of erecting and constructing a bridge across the Ohio river, between the cities of Newport and Cincinnati; and they, and their associates and successors, shall continue and have perpetual succession, and by that name and style are hereby made as capable, in law, as natural persons, to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, in this commonwealth and elsewhere, in all courts of law and equity; to make, have, and use a common seal, and the same to break, alter, and annul at pleasure; they shall also have the power to purchase and hold as much real estate as will be necessary for the site of said bridge, or the sites for piers, abutments, toll-houses, and suitable avenues leading to said bridge; also, to borrow money, not exceeding the capital stock mentioned in this act; but not to have or exercise the privilege of loaning money, or issuing bills or notes on banking principles; also, to ordain and establish such by-laws, ordinances, and regulations as shall be necessary for the well-being and government of said corporation, not contrary to the laws of this commonwealth, the state of Ohio, or of the United States.

Corporators' names.

Corporate name and powers.

May borrow money, not exercise banking privileges.

§ 2. That the capital stock of said company shall consist of three hundred thousand dollars, divided into three thousand shares of one hundred dollars each, to be subscribed for and sold in the manner hereinafter mentioned.

Capital stock

§ 3. That within six months after the passage of this act, and the confirmation thereof by the state of Ohio, the persons before named, or a majority of them, shall cause a public advertisement to be made of the time and place of opening the books for subscription of stock of said company, which books shall be kept open, under the direction of said persons, or a majority of them, not less than one nor more than four months. If, however, at the closing of the subscription, it shall be found that a greater number of shares than three thousand have been taken, then, and in that case, the persons before named, or a majority of them, shall proceed to reduce the number of shares, in an equitable and just proportion, among the subscribers, not reduc-

When books for subscription of stock to be opened.

Shares subscribed may be reduced.

1851.

ing any one below five shares; and they shall have the right to demand, and receive, from every person subscribing for stock of said company, a sum not exceeding ten nor less than one dollar on each share subscribed, at the time of making the subscription; and no subscription shall be deemed valid, unless such payment be made, if required by the condition of the subscription.

When company
shall be organized.

May elect
president and
directors.

Compensation
of president.

May enact by-
laws, &c.

§ 4. That when one-fourth of said shares shall have been subscribed, the said persons, or a majority of them, shall advertise a meeting of the subscribers at Newport, giving at least ten days notice of the time and place of such meeting; and the stockholders shall, thereupon, proceed to elect a president and six directors, and those persons named in the first section of this act, who shall not then be stockholders, shall cease to be members of this corporation; and the said shareholders shall also proceed to fix what compensation the said president and directors shall be entitled to receive, if any be allowed; also, to ordain and adopt any such by-laws for the permanent organization of said corporation, as they may deem needful; at which meeting each shareholder shall be entitled to one vote for each share to the number of fifteen, and to one vote for every five shares over fifteen, to the number of fifty, and to one vote for every ten shares exceeding fifty; and at all subsequent elections or general meetings of the stockholders, no shares shall be voted on that have not stood in the name of the person claiming to vote, at least three months previous to the day of election or meeting; and that the shares in said company may be voted on by proxies, duly recorded, conforming to the foregoing regulations.

Term of office
of directors.

Time of election.

Statement of
affairs to be presented
at annual meeting.
Dividend to be
declared.

Directors to
manage affairs
of company.

§ 5. That the president and directors first chosen shall hold their offices until the first Monday in May ensuing said election, and until others are chosen in their places; and so, on the first Monday in May, in each year, the stockholders of said company shall meet at their office in Newport, or at some place to be designated by the president, and there proceed to elect a president and six directors, who shall be shareholders and residents of the states of Kentucky and Ohio, who shall hold their offices for one year, and until their successors are elected. Public notice of such elections and meetings shall be given by the clerk or secretary of the company, in some newspaper published in Newport or Cincinnati, at least ten days previous thereto. At the annual meetings, a statement of the affairs of the company shall be made out by the president and directors, and presented to such meetings, and such dividends of the profits declared as shall be deemed advisable.

§ 6. That the concerns of said corporation shall be under the control of said president and directors; and the president and three directors shall constitute a quorum to

transact business, or in the absence of the president, any four of the directors, one of whom shall act as president, *pro tempore*. The president and directors, after they have been duly elected as aforesaid, may make such assessments on the shares of stock in said company as are subscribed, payable at such times as they may deem advisable, with such conditions of forfeiture for non-compliance, not exceeding the amount of stock delinquent, as they may deem proper. They are to open and renew the subscription for the shares not already subscribed, or sell them, and any forfeited shares, as they may think best for the company: *Provided, however*, that no stock be sold by them for less than the par value thereof.

§ 7. That it shall be the duty of the president and directors to appoint a clerk, or secretary, and cause a record of their proceedings to be kept; they may also appoint a treasurer, and such other officers and agents as they may think needful for promoting said undertaking, and allow them such compensation as they may agree on; to make contracts, and to do all things necessary to carry them into immediate effect, and to require and take such bonds, or other security, in their corporate capacity, from any person or persons they may so appoint and contract with; and in the event of death, resignation, or vacancy from any cause, of the president or any director, the survivors, or a majority of them, shall supply such vacancy, until the next annual election, by the election of another stockholder.

§ 8. That the president and directors shall have the right to fix the rates of toll for passing over said bridge, and to collect the same from all and every person or persons passing thereon, with their goods, carriages, or animals of every description or kind: *Provided, however*, that the said company shall lay before the general assembly of this commonwealth, a correct statement of the cost of said bridge, and an annual statement of the tolls received for passing the same, and the cost of keeping the said bridge in repair, and of the other expenses of the company; and the said president and directors shall, from time to time, reduce the rates of toll, so that the net profits of said bridge shall not exceed twelve and a half per centum per annum, after the proper deductions are made for repairs and charges of other descriptions. Toll gates shall be kept and toll received at each end of the bridge; and the rates of toll shall be posted up in some conspicuous place where the toll is demanded.

§ 9. That certificates of stock in said company shall be issued, under the seal of said corporation, in form and manner designated by the by-laws of said company, which shall designate the mode of transfer.

§ 10. That said company shall be held liable, by any appropriate action, for all injuries sustained by vessels or

1851.

Calls on stock;
how paid.

May re-open
subscription
books.

Directors may
appoint other
officers.

Bonds may be
required.

Vacancies;
how filled.

Directors to
fix tolls.

Annual state-
ment of affairs to
be rendered gen-
eral assembly.

Tolls to be re-
duced, if neces-
sary.

Certificates of
stock to be is-
sued.

Company lia-
ble for injuries.

1851.

Slaves crossing said bridge.

Penalty for illegally permitting slaves to pass.

Service of process on company.

Residence of directors.

Company to light bridge at night, and to remove drift.

Bridge not to obstruct navigation of the Ohio river.

boats, and rafts of plank, timber, or other lumber, passing up or down said river, in consequence of the construction of said bridge, unless the injury shall be produced by the carelessness or neglect of the persons managing such vessels, rafts, or boats. And it shall be unlawful for said company, their agents or officers, to suffer or permit any slave or slaves to pass over said bridge, without the consent of the owner or owners of such slave or slaves, given in the manner required by law, in passing a slave or slaves over the ferries on the Ohio river, from the Kentucky to the Ohio shore; and said company shall be liable to pay to said owner or owners for every slave so permitted or suffered to pass, contrary to the provisions of this act, the full value of said slave or slaves, to be ascertained by the verdict of a jury, together with twenty per centum thereon, to be assessed by the judgment of the court, and all costs of suit, which shall be recovered as other debts.

§ 11. That it shall be sufficient service of process on the corporation hereby created, to execute a summons, or other process, on the president, clerk, or treasurer, or any one of the directors of the company; and process so executed shall authorize judgment at the first term, as in other cases, if no appearance should be entered, or plea filed: *Provided, however,* the president, secretary, or treasurer, and three directors shall reside in Kentucky, and either the one or the other of those officers, with three directors, shall reside in Ohio.

§ 12. That it shall be the constant duty of said company, from time to time, to light, during the night, in the centre of each pier in the river, if said bridge should be constructed with piers; to remove all timber, or drift of any description, which may lodge against any of the piers of said bridge; and if they fail herein, they shall be liable to a fine of twenty-five dollars for every twenty-four hours it is suffered to remain, after allowing a reasonable time to remove the same, recoverable by indictment or presentment in the Campbell circuit court; and shall be liable moreover, civilly, to any person sustaining injury thereby.

§ 13. That nothing contained in this act shall be so construed as to authorize the said company to construct any bridge which may obstruct the free and common navigation of the Ohio river.

Approved December 2, 1851.

CHAPTER 56.

AN ACT to incorporate the Estill Springs Company.

Company created.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company is hereby established, to be denominated the Estill Springs company.

§ 2. The capital stock of the said company shall consist of fifty thousand dollars, to be divided into five hundred shares of one hundred dollars each.

1851.

Capital stock.

§ 3. The stockholders in said company, their successors and assigns, are hereby made a corporation and body politic, in law and in fact, by the name and style of the Estill Springs company, and by that name and style shall be capable in law to contract and be contracted with; to have, possess, enjoy, and retain to themselves, their successors and assigns, the present valuable property of William Chiles, sr., known as the Estill Springs, with all its buildings and improvements; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of record or any other place, and make, have, and use a common seal, and the same to alter or amend at pleasure; to ordain, establish, and put in execution such by-laws, ordinances, and regulations as shall seem necessary and proper for the government of said corporation, not being contrary to the laws of the land or this act.

Corporate powers & name granted

May make by laws, &c.

§ 4. The principal business of this company shall be to purchase, own, and improve the property named in the third section of this act.

§ 5. The stockholders in this company may have the right to erect, at their own individual expense, on said lands, such houses as they may deem necessary for the lodging of themselves and families. Such houses, so built, shall be held sacred to the purposes of their erection, but never to be converted into boarding or dwelling houses. The stockholders who may choose to build may select the site; and if two or more select the same site, the preference shall be determined by lot as may be provided by the by-laws of the corporation: *Provided only*, that the buildings so erected shall be of substantial materials, and located so as not to obstruct the front view; nor so near as to endanger the main improvements of said company.

Stockholders may build at their own cost.

Such houses to be reserved for owner.

§ 6. The stock in said company shall be assignable only on the books of said company, and shall, to all intents and purposes, be considered as personal estate; which assignment of stock on the part of any builder, as provided for in the fifth section of this act, shall pass to the assignee such rights to the buildings as the assignor himself possessed, which is understood not to extend to the right of soil, or the right of removal of any buildings, but only to the usufructuary interest in the same, confined to lodging rooms and parlors, dependent on the company's boarding house for refreshments of every kind, and, at the termination of fifty years, to belong to the corporation in their corporate capacity.

How stock to be assignable.

§ 7. Certificates of stock may be issued to such persons as may be entitled to them.

Certificates of stock to be issued.

1851.

Names of commissioners.

May open books for subscription of stock.

Contract to be signed.

Meeting of stockholders. President and Directors to be elected.

How elections to be held.

Directors to appoint other officers.

Dividends to be declared.

Calls upon stock; how made.

§ 8. To carry into effect this corporation, William C. Goodloe, E. L. Shackleford, Owen W. Walker, Isaac D. Smith, Benjamin C. Bruce, Henry C. Pindell, C. C. Norton, Josiah A. Jackson, Jesse Grant, Robert Clark, and John Chiles are hereby appointed commissioners, any three of whom shall, on the 25th day of December next, open books for the subscription of stock in said corporation, at the Estill Springs hotel, or such other place or places as they may deem proper, and to remain open until it shall appear that two hundred shares have been taken; and the subscribers to the stock in the said company shall enter into the following obligation in said books, viz: We, whose names are hereunto subscribed, do hereby bind ourselves to pay to the president and directors of the Estill Springs company, the sum of one hundred dollars for each and every share of stock in said company set opposite our names, in such manner, and at such times, as shall be required by the president and directors of said company. And when it shall appear that the requisite number of shares have been subscribed, it shall be the duty of said commissioners to notify each stockholder of said subscriptions, and in said notice to fix upon a time and place for the meeting of the stockholders.

§ 9. When the stockholders shall meet in accordance with said notice, a majority of whom shall constitute a quorum to do business, they shall choose a president and four directors, all of whom shall be stockholders, who shall hold their offices for twelve months, and until their successors shall be duly elected. The by-laws of said corporation shall fix the time and place of said elections, of which reasonable notice shall be given to the stockholders; but unless a majority in interest shall be represented, no election of new officers shall take place: *Provided, however*, any stockholder may, in case of his absence, be represented by proxy.

§ 10. That the president and directors, when chosen, or any three of them, shall constitute a quorum, or board, and shall appoint agents and officers under them, for doing the business of the corporation; and shall do and perform every act, for the benefit of said corporation, which the corporation themselves, if assembled for that purpose, could lawfully do and perform. The president and directors shall, from time to time, declare such dividends as may arise from the profits of the corporation. They shall make such calls upon the stockholders as they may deem prudent or necessary, in paying the purchase money or otherwise: *Provided*, that they shall give the subscribers thirty days notice of the amount and time of payment of all such calls, by letter to them addressed, directed to the nearest post office to their residence, if known. It shall be lawful for them to effect insurance upon any of the build-

ings or property belonging to said corporation. They shall have power to buy all such property and furniture as, in their judgment, the wants of the establishment may demand, and sell the same when necessary; and they shall also have power to rent or lease said property. It shall be their duty to contract for and perfect the title of the corporation to the property herein mentioned.

1851.

Approved December 2, 1851.

CHAPTER 57.

AN ACT to incorporate McClure Chapter, No. 48, of Royal Arch Masons, in Crittenden, Grant county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the companions of McClure chapter, No. 48, of royal arch masons, at Crittenden, Grant county, be and they are hereby created a body politic and corporate, by the name and style of McClure chapter, No. 48, of royal arch masons, with perpetual succession; and by that name may sue and be sued, in all courts of law and equity in this commonwealth, and shall have power to enact by-laws for their government, not inconsistent with the constitution and laws of the commonwealth, or of the United States; to make, have, and use a common seal, and alter, break, and renew the same at pleasure, and may hold any real estate, in the county of Grant, not exceeding in value, at any one time, the sum of five thousand dollars; and to do and perform all such acts as usually pertain to bodies politic and corporate of a like character.

Approved December 2, 1851.

CHAPTER 58.

AN ACT authorizing the Judge of the Boyle County Court to sell a portion of the Court House lot.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the Boyle county court to make an order directing the sale of that part of the court house lot, in Danville, on which the old jail is erected, after having caused the same to be valued by three discreet persons.

Boyle county court may sell the jail lot.

§ 2. The court shall direct the sheriff to execute the order of sale, and shall have the power to confirm or set the same aside on the coming in of the sheriff's return. The sale shall not be confirmed unless the ground sells for the price fixed in the report of the appraisers. Upon the payment of the purchase money the court shall cause the sheriff to make a deed to the purchaser, which deed shall vest in him or her the title in fee simple.

Sheriff make sale.

1851.

How proceeds
to be applied.

§ 3. The proceeds of the sale, after paying the costs and expenses incident thereto, shall be applied by the court for the purpose of erecting another jail thereon.

Approved December 2, 1851.

CHAPTER 59.

AN ACT to incorporate Campbell Female College, in Campbell County.

Corporators'
names.Corporate
name and pow-
ers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James Johnston, L. L. Lurton, Samuel D. Holmes, E. L. Southgate, William B. Ross, H. H. Mayo, and William M. Hawkins, be and they are hereby appointed a body politic and corporate, by the name and style of the Campbell female college, and by that title they, and those who may become stockholders, as hereinafter provided for, and their successors, shall have perpetual succession; and by that name and style are hereby made capable, in law, as natural persons, to contract and be contracted with, to sue and be sued, to plead and be impleaded, in all courts in this commonwealth and elsewhere, both at law and in equity; to acquire, hold, and convey property, both real, personal, and mixed, and to receive donations of money, lands, or other property; they shall have power to establish such by-laws, ordinances, and regulations as shall be necessary for the good government of the corporation, not inconsistent with the laws and constitution of this state or of the United States.

Capital stock.

Books to be
opened for sub-
scriptions.When compa-
ny may organ-
ize.Election of
trustees.Time of elec-
tion.Powers of
trustees.

§ 2. The capital stock of said company shall consist of five hundred shares of twenty-five dollars each, to be subscribed for or sold in the manner hereinafter named; and the persons named, as aforesaid, or a majority of them, shall cause a public advertisement to be made of the time and place of opening books for the subscription of stock; which books shall be kept open until at least fifty shares are subscribed; and when fifty shares are subscribed, the said persons, or a majority of them, shall call a meeting of the shareholders, and they shall, thereupon, proceed to elect five trustees, and those persons named who are not then shareholders, shall cease to be members of this corporation. At the election of trustees each shareholder shall be entitled to one vote for each share he may own. The trustees thus chosen shall continue in office until the first Monday in January ensuing the election thereof, and until their successors are elected; and, on the first Monday in January, in each year, the stockholders shall meet, in person or by proxy, at such place as said trustees may select, and elect trustees for the ensuing year.

§ 3. The entire business and management of the corporation shall be under the control of said trustees, or a majority of them. They shall make such calls on the stock-

holders, payable at such periods and places as they may deem proper, with such conditions of forfeiture for non-compliance, not exceeding the amount of stock delinquent, as they may deem right and proper; and said trustees may, from time to time, re-open the books for the subscription of stock, until the whole number of shares have been taken, should they deem it for the advantage of the company. Said trustees may make contracts with any person or persons for the purchase of ground, and the erection of such buildings as may be required for said college, or may receive such ground, or a part thereof, as a donation; and do all things needful for the erection of the buildings. They may receive conveyances for such real estate as may be required for the location of said college; and may take bond, or other security, from such person or persons as they may contract with; and in the event of the death or resignation of any of the trustees, they may supply the vacancy until the next annual election.

§ 4. That the trustees shall have power to appoint a principal, or president of said college, and such other professors and instructors as may, at any time, be necessary for the instruction of the pupils therein in the arts and sciences, and in all necessary, useful, and ornamental branches of a thorough and liberal education, such as are taught in the best female colleges or academies; and shall fix their salaries, from time to time, and make such rules and regulations for the government and conduct of said institution, as they may deem expedient, and may appoint a dean, treasurer, and secretary, and require and accept such bond or bonds from them as they may deem requisite for the safety of the institution; and shall, also, fix their salaries. They may confer on those pupils whom they may judge worthy, all such honors and literary degrees as are usually conferred by the best female institutions.

§ 5. Said trustees shall appoint one of their own body as chairman, and a majority shall form a quorum to do business.

§ 6. That when a shareholder has paid up his stock in full, a certificate of stock shall be issued to him, which shall entitle the holder to the privilege of sending one scholar to said institution for one year for each share; and any shareholder having five shares upon which the stock has been fully paid, shall be entitled to a perpetual scholarship: *Provided*, that he does not claim to send a yearly scholar on any of said shares, as above provided for: *And, provided further*, that all scholars entered upon certificates of stock, shall pay such fees for instruction in branches of attainment that are considered ornamental, and are in other and similar institutions chargeable as extra, as may be fixed by said trustees; the certificates of stock shall be signed by the treasurer and chairman of the board of

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Calls on stock;
how made.

May erect
buildings.

Trustees to ap-
point professors,
&c.

May erect
rules, appoint
other officers,
&c.

Chairman of
board of trust-
ees.

Certificate of
stock to be is-
sued.

Who entitled
to scholarships.

1851.

Funds, &c., to
be used only for
educational pur-
poses.

trustees, and shall be assignable on the books of the company only.

§ 7. That all funds, lands, or personal property which may come into the hands of said trustees, under the provisions of this act, shall be used only for educational purposes, and the permanent advancement and interests of said college.

Approved December 2, 1851.

CHAPTER 62.

AN ACT for the benefit of School District No. 21, in Calloway county, and No. 27, in Hardin county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the superintendent of public instruction be and he is hereby directed to draw an order on the auditor of public accounts for the sum of thirty-six dollars and sixty cents, which sum shall be paid to the commissioners of common schools, in the county of Calloway, to be paid by them to the trustees of school district No. 21, in said county; and, also, for twenty-two dollars and eighty cents, to be paid to the commissioners of Hardin county, to be paid by them to the trustees of school district, No. 37, in said county.

Approved December 2, 1851.

CHAPTER 63.

AN ACT dividing School District No. 58, in Adair county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That school district No. 58, in Adair county, be and the same is hereby divided; and that portion of it lying north of Green River is hereby erected into a separate district, and that part lying south of said river is hereby erected into a separate district; and the school commissioners of said county, or a majority of them, are hereby directed to organize said districts, in accordance with the provisions of an act, entitled, an act to reduce into one the several acts concerning common schools, and more effectually to establish the same, within this commonwealth, approved February 10, 1845.

Approved December 2, 1851.

CHAPTER 64.

AN ACT for the benefit of James O. Calhoun, Sheriff of McCracken county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James C. Calhoun, the present sheriff of

McCracken county, shall have until the first day of February, 1852, to pay into the treasury the revenue of McCracken county for the year 1851, and return his delinquent list: *Provided*, that the securities of said sheriff appear before the McCracken county court and give their assent to the indulgence hereby given.

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Approved December 2, 1851.

CHAPTER 65.

AN ACT to repeal an act to authorize the County Court of Nelson and Barren counties to subscribe stock in the Louisville and Nashville Railroad Company, approved the 15th of March, 1851.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act entitled, an act to authorize the county court of Nelson and Barren counties to subscribe stock in the Louisville and Nashville railroad company, approved March 15, 1851, be and the same, so far as its provisions apply to Nelson county, is, and it is hereby repealed. But this act shall in no way apply to the provisions of said act so far as the same applies to Barren county.

Approved December 2, 1851.

CHAPTER 67.

AN ACT to provide for the better regulation and support of the public schools in the city of Newport.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the corporate authorities of the city of Newport shall provide for the support of the public schools and academy of said city, in the manner prescribed by the provisions of this act.

Authorities of city to provide for the public schools.

§ 2. That at every annual election of city officers, there shall be elected in each ward, by the qualified voters of said city, one person to serve as trustee and visitor of the public schools and academy of said city, who shall serve for one year, or until their successors are elected; and the persons so elected shall constitute a board of education, to be denominated the board of trustees and visitors of public schools in the city of Newport.

Each ward to elect a trustee and visitor.

§ 3. That each trustee and visitor, before he enters upon the duties of his office, shall take an oath faithfully to discharge the duties of trustee and visitor, according to law, and to the best of his ability.

Such trustee and visitor to take official oath.

§ 4. That said board shall have power to appoint a clerk and treasurer, and prescribe their duties, who shall continue in office for one year, and shall be allowed a reasonable compensation for their services, to be paid out of the

Board may appoint other officers; their pay, &c.

1851.

Treasurer to
execute bond.

general school fund. The treasurer shall execute bond, in the penalty of ten thousand dollars, payable to the city of Newport, with security, to be approved of by the board of trustees and visitors aforesaid, conditioned for the safe keeping and disbursement of such funds as may come into his hands, according to the order of said trustees and visitors, and shall report the amount and condition of said fund, whenever called on by said board, and to be liable to a motion on his bond before the mayor of said city, with twenty per centum damages on the amount improperly withheld or in his hands, for any failure to execute the duties of treasurer as provided for in this act.

Board to ap-
point president;
their powers.

§ 5. That said board shall appoint a president, and appoint the time and place of meeting; a majority of them shall constitute a quorum to transact business, and shall have power to fill all vacancies which may occur in their body by death, resignation, or otherwise; and shall have power to pass such by-laws, rules, and regulations for their own government, and for the government of said schools and academy, not inconsistent with this act and the constitution of Kentucky, as they may deem proper; and shall keep a record of their proceedings in a book provided for that purpose.

Report annu-
ally to common
council.

§ 6. That the said board of school trustees and visitors shall, on or before the first day of April, annually, report to the common council of said city the expenditures of the preceding year, and an estimate of the amount necessary to support the schools for the ensuing year, which amount shall not exceed ten cents on each one hundred dollars worth of property now assessed in each year for city revenue purposes; and the amount thus called for shall be paid over by the treasurer of the city of Newport, to the treasurer of said school fund, by the first day of September of each year, or so soon thereafter as the same shall have been collected.

Board of trust-
ees may hold
lands and erect
buildings.

§ 7. That the said trustees and visitors shall have authority to purchase, or lease for a term of years, or receive as a donation, for the use of said schools, such additional lots of land as may be required for the schools of said city; and shall cause to be erected such buildings as may be necessary for the use of the public schools and academy aforesaid, the purchase money or rent of said ground, and the cost of erecting the buildings thereon, shall be paid out of the funds provided for in the sixth section of this act; and the property heretofore purchased, or donated, or which may hereafter be purchased or donated shall, not be liable for the debts of the city of Newport.

Have control
over all public
schools in said
city.

§ 8. That the said board of trustees and visitors shall have the superintendence and control of all the public schools now organized, or which may hereafter be organized and supported, under and by virtue of this act, in the

city of Newport; and it shall be their duty to employ all teachers and instructors, and fix their salaries, provide for annual and semi-annual examinations of the schools, fix the time and duration of vacations, and shall publish at the end of each year, a report of the condition of the schools under their charge, for the information of the citizens of said city.

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§ 9. That said schools and academy shall at all times be equally free and accessible to all white children of not less than six nor over seventeen years of age, who may reside within the corporate limits of the city of Newport, subject, however, to such rules and regulations for their government and instruction as the trustees and visitors may from time to time adopt.

Said schools at all times to be free.

§ 10. That there shall be appointed annually by said board of trustees and visitors, three competent persons, to be denominated "the board of examiners," whose duty shall be to examine such persons as apply to be employed as teachers, and shall grant certificates of qualification to such as they may find entitled to the same; and said board of trustees and visitors shall not employ any person as teacher who has not first obtained such certificate.

Appoint board of examiners.

§ 11. That all fines and forfeitures, tavern and coffee-house licenses, that may be collected by the authorities of the city of Newport under any law imposing a fine or tax, and all fines collected under the city ordinances, are hereby appropriated to the use of the public schools, as aforesaid, if required by said board of trustees and visitors; and it is hereby made the duty of the mayor and clerk of the city of Newport to pay over to the treasurer of public schools, such sum or sums of money as may from time to time come into their hands from taxes on taverns and coffee house licenses, and fines and penalties, as above appropriated to public schools, if required by the board of trustees and visitors.

Fines of the city to be for the use of the public schools.

§ 12. That the common council of the city of Newport shall not use or appropriate the funds, or any part thereof, which have been set apart by this act for the benefit of public schools, but shall regularly and faithfully cause the same to be paid over as herein provided.

Common council not to divert said funds.

§ 13. That all acts or parts of acts coming within the purview of this act are hereby repealed.

Former acts repealed.

Approved December 2, 1851.

CHAPTER 68.

AN ACT for the benefit of mechanics in Monroe county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the provisions of an act, approved 1st February, 1839, entitled, an act for the benefit of the me-

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1851. mechanics of Maysville, shall be and the same are hereby extended to the county of Monroe.

Approved December 2, 1851.

CHAPTER 70.

AN ACT repealing all acts permitting the County Court of Larue to subscribe stock in any railroad or turnpike companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all acts and parts of acts permitting the county court of Larue county to subscribe stock in any railroad or turnpike road company, be and the same are hereby repealed, so far as the same, in any or all their provisions, are applicable to said county of Larue.

Approved December 2, 1851.

CHAPTER 71.

AN ACT to allow the Taylorsville and Louisville Turnpike Company to erect a gate near Jeffersontown.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the Taylorsville and Louisville turnpike road company to erect and keep a gate for the collection of tolls within less than one mile of the town of Jeffersontown, in Jefferson county; *Provided, however,* that they shall not exact the payment of tolls at said gate from any person living in said town, or within one mile of the same, on that side of the town on which said gate is erected.

Approved December 2, 1851.

CHAPTER 72.

AN ACT for closing up certain old roads in Fleming county.

Turnpike companies in Fleming county may close up old roads.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the several turnpike road companies, in the county of Fleming, be and they are hereby vested with power, as they shall severally complete their respective roads and have the same ready for travel, to close up, or cause to be closed, all or any portion of the old road not occupied by the turnpike, as may be superseded by the construction of said turnpike roads.

Certain persons may close up old roads.

§ 2. That any person or persons owning the land, or any part thereof, of the old road not occupied, but left out by the turnpike road running upon other ground near or adjacent, may, when said part of the turnpike near said portion of the old road is finished and put in use by the company, close up all such parts of the old road as may be in-

cluded in his or her lands, and superseded by the turnpike road: *Provided*, that said companies shall not close up said old roads, upon the line of which the turnpike road runs, after the turnpike leaves the same, and does not again touch or intersect said old road before its termination, nor any other road than that upon which the turnpike runs and occasionally intersects, at short distances, unless the county court shall so direct, after giving legal notice of the proposed change.

§ 3. That no toll shall be taken or demanded from any person passing or repassing from one part of his farm to another, or to or from any funeral, or neighborhood church, or school house, or from militia men on days of training, or when attending courts martial, or from electors going to or returning from elections, or from any person going to or returning from mill on horseback.

Approved December 2, 1851.

1851.

Proviso.

Certain persons exempt from tolls.

CHAPTER 73.

AN ACT to incorporate the St. Joseph's Orphan's Society, of Louisville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of St. Joseph's orphan's society, of Louisville, be and they are hereby created a body politic and corporate, by the name and style of St. Joseph's orphan's society, of Louisville, with perpetual succession, and by that name shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of purchasing and holding all such real and personal estate as may be necessary and required for the use and accommodation of said society. They shall have power to receive all necessary conveyances, to sell, convey, and dispose of all such real and personal estate as they may now have, or hereafter acquire: *Provided*, the amount vested in real estate, exclusive of the buildings thereon, shall not, at any time, exceed the sum of ten thousand dollars.

Members incorporated.

Corporate name and powers.

§ 2. That the management of the concerns of said corporation shall be and is hereby confided to the present president, secretary, treasurer, and managers, and their successors in office, as trustees, who shall have power to make all contracts pertaining to the real and personal estate, in all respects, either in purchasing, building, or renting, or for any other purpose, which shall be binding and obligatory upon said society, when made in pursuance of the rules, by-laws, and instructions of said society; and service of process or notice on any of said trustees, shall be sufficient notice to said corporation.

Power vested in a board of managers.

§ 3. That said society may, at any time, pass such by-laws, rules, and regulations, not inconsistent with the con-

May pass by laws, &c.

1851.

stitution and laws of this state, as may be necessary for the protection, management, and safe-keeping of the property of said society; and any money received for any trespass or injury done on or to the property aforesaid, shall be for the use and benefit of said society, and be so applied.

Common seal.

§ 4. That said corporation shall have power to adopt, make, and use a common seal, and the same to break, alter, or amend at pleasure.

Power reserved to amend this charter.

§ 5. That the objects of this corporation are only to enable said society to hold and manage the property thereof; and this act, and the powers hereby granted, shall not be employed for any other purpose; and the general assembly hereby reserves the right to change, alter, or amend this act at pleasure.

Approved December 2, 1851.

CHAPTER 75.

AN ACT to empower the Trustees of Williamsburg to sell a portion of a street in said town.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the trustees of the town of Williamsburg, in Whitley county, after the first day of December, 1851, shall have power to sell and convey all that part of the street running east and west, in front of Brawner's store and Moss's dwelling house, which lies west of the street running north and south and in front of Brawner's dwelling house, and apply the proceeds of the sale thereof to the benefit of said town: *Provided*, that no sale be valid, unless the written consent of the owners of property adjoining the part sold shall be first obtained, which shall be acknowledged or proven as a deed, and recorded with the conveyance.

Approved December 2, 1851.

CHAPTER 76.

AN ACT to amend an act, entitled, an act to amend the laws regulating the town of Millersburg, in the county of Bourbon.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the fines, penalties, and forfeitures that may accrue in the town of Millersburg, and within one half mile from the limits thereof, except those which, by law, are directed to be paid into the public treasury, shall be paid over to the treasurer of said town, for the use and benefit thereof, to be applied to the working and improvement of the streets and alleys of said town.

Approved December 2, 1851.

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CHAPTER 77.

AN ACT for the benefit of the Trustees of the town of Hartford.

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§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That power is hereby given to the trustees of the town of Hartford, to have any portion of any street or alley in said town graded and paved, and to have sidewalks constructed in any manner they shall see proper; and may levy a tax upon the lots adjoining such improvement, to pay the expenses thereof.

Trustees may grade and pave streets.

§ 2. That the owner or owners of any lot or part of a lot, may have the liberty of making said improvement in front of their property, under the direction of the trustees, in lieu of paying the tax; and that no citizen shall be privileged to make a sidewalk of any other grade than such as may be directed by the trustees.

Owner of lot may make said improvement.

Approved December 2, 1851.

CHAPTER 78.

AN ACT to incorporate the Rough Creek Navigation and Manufacturing Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company be and the same is hereby incorporated, to be called and known by the name and style of the Rough creek navigation and manufacturing company, and, by that name, shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their capital stock, and the increase thereof; to contract and be contracted with, sue and be sued, plead and be impleaded, defend and be defended, answer and be answered, in all courts in this commonwealth and elsewhere; and shall have power to ordain and pass such by-laws, rules, and regulations for the government and control of the private affairs of the company, as shall be deemed necessary, not being contrary to the provisions of this act nor to the laws of this commonwealth.

Company incorporated.

Corporate name and powers.

§ 2. That the business of said company shall be the improvement of the navigation of Rough creek from its mouth to the Great Falls, and the erection of such machinery and manufactories as they may think proper to build, construct, and carry on. The capital stock of said company shall not exceed five hundred thousand dollars, to be divided into shares of ten dollars each; and said company shall have the power to erect any number of locks and dams on Rough creek that they may deem necessary for the purpose of its navigation; and, when so erected, said company shall have the exclusive benefit of all water power derived from the erection of said dams; and no person whatever shall have the right to divert the water from said stream, for the

Objects of the company.

Capital stock.

To have exclusive use of water power.

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May condemn
certain lands—
proceedings
therefor.

purpose of propelling any machinery, without the permission of said company.

§ 3. That said company shall have the right to have not exceeding one acre of ground on each or either side of said creek, to be laid off in reasonable shape, at the place where they may wish to erect any abutment to any dam they may terminate to build, which land may be condemned and valued in the same manner that other lands are condemned by the internal improvement laws of this state; and when said company shall have paid the damages assessed, the owner or owners of the land shall convey the same to said company.

May purchase
or lease lands.

§ 4. That for the purpose of enabling said company to build and erect machinery and manufactories, they shall have power to purchase and hold lands to any amount not exceeding ten thousand acres, and to lease for any time not exceeding twenty years for any one contract, any amount of other lands they may deem proper; and, in addition to their other corporate powers of navigation and manufacturing, they shall have the right to transport and sell, in any market they may deem fit, any coal, timber, ores, or minerals they may procure from lands so purchased or leased.

May sell coal,
timber, &c.

To be liable
for damage by
overflow.

§ 5. That said company shall be liable to any individual, companies, or corporations for any damages that may result in consequence of the overflowing of any lands, destruction of any vested right of water power, or flooding any mill, or mill seat, or for any damage which may result in any manner whatever by the erection of said dams; and said company shall not have the right to erect any dam which will raise the water above fifteen feet above low water mark.

Height of dams.

Commissioners
to receive sub-
scriptions of
stock.

§ 6. That John W. Lewis, E. M. Ford, T. C. Taylor, A. R. Roman, John Douglass, George P. Bennett, A. Woodward, H. J. Belt, Alfred Tanner, William Ashley, W. W. Hines, William Duke, J. J. Harrison, John Cannon, Joseph Ford, John Pattie, and William D. Sinclair be and they are hereby appointed commissioners, for the purpose of opening books for the subscription of stock to said company; and a majority of said commissioners shall have power to determine at what times and places said books shall be opened, and to appoint suitable persons, if necessary, to attend to the same; and when, in the opinion of said commissioners, a sufficient amount of capital stock shall have been taken to build one lock and dam upon Rough creek, they shall call a meeting of the stockholders, by advertising the same as they may see proper; at which meeting the stockholders shall proceed to elect a president and six directors, who, when elected, shall hold their offices for one year, or until their successors are elected. Said president and directors shall have the management and control of the whole of the affairs of said company; and, at the

Books to be
opened.

When compa-
ny may organ-
ize.

President and
directors to be
elected—term of
office.

meeting so held, the stockholders shall fix upon a time for the annual election of the said officers by the stockholders; and no one shall be elected president or director who is not a stockholder.

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Annual elections to be held.

§ 7. If, at any meeting of the stockholders, a majority should fail to attend, either by person or by proxy, the election shall be postponed by the president until some future day; and if a majority should fail to attend on that day, the election shall be postponed until the next annual election.

For failure to elect, it shall be postponed.

§ 8. That in all elections, the stockholders shall vote by person or by proxy. The president and directors shall have a right to adopt some rule for the verification of proxies; and each stockholder shall have a right to give one vote for every share of stock he may hold up to twenty, and one vote for every two shares he may hold over twenty and not exceeding fifty, and one vote for every five shares he may hold over fifty.

How votes may be cast.

§ 9. The president and directors of said company shall keep a regular record of all their proceedings; they shall also appoint a treasurer, who, before he enters upon the duties of his office, shall execute bond with good surety, to be approved by the directory, in such penalty and with such conditions as they may direct. The duties of the treasurer shall be to keep the books and accounts of the company, to receive and take charge of all moneys received by the company, and to pay out such sums only as he may be authorized by the order of the president and directors. He shall exhibit to the stockholders, at their annual meetings, a statement of the finances of the company, showing the receipts and expenditures, and such other information as he may be required to give; and his books and accounts shall at all times be open to the inspection of any stockholder who may require it.

Directors to keep a record of their proceedings.
Treasurer to be appointed and execute bond—his duties.

Statement of affairs to be made at annual meeting.

§ 10. The president and directors shall have power to appoint and employ any suitable person or persons as agents, managers, engineers, artists, or laborers, at such reasonable salaries as they may deem proper.

Directors may appoint suitable agents.

§ 11. The president and directors shall have the right to make any call upon the capital stock subscribed, not exceeding twenty per cent. on the amount subscribed, nor oftener than once in two months; and shall have power to sue for and recover any calls that may be due from the stockholders, when said call shall remain unpaid for a longer period than one month; or, if they think proper, they may forfeit to the company any stock, when the holders thereof shall suffer the calls made thereon to remain unpaid for a longer period than two months.

How calls on stock are to be made.

Defaulting stock may be forfeited.

§ 12. The president and directors shall have power to issue certificates of stock to the several stockholders, and said certificates may be assignable by indorsement thereon

Certificates of stock to be issued. How transferred.

1851.

made in the presence of the president, and a minute thereof made by him in a book kept for that purpose : *Provided*, that no assignment shall release the original holder from the payment of any calls that may be due, or may afterwards become due on the same.

Capital stock
may be increas-
ed.

§ 13. At any time when the president and directors shall deem it necessary to increase the capital stock of the company, they shall open books at such times and places, and in such manner as they may deem proper, which new stock shall be subject to the same rules and regulations as the stock first subscribed : *Provided, however*, the whole amount of stock shall not exceed the said sum of five hundred thousand dollars.

May receive
tolls for crafts
passing their
locks, &c.

§ 14. When any lock and dam shall have been completed, so as to admit of the passage of boats, &c., the president and directors, by themselves or agents, shall have the right to demand and receive from the owner or owners, masters or supercargoes of all vessels, boats, or crafts, ascending or descending said creek, at the lock, before such vessel, boat, or craft shall be permitted to pass, such rates of toll as shall be prescribed by the president and directors : *Provided*, that the tolls charged shall at all times be subject to the revision of the board of internal improvement of Kentucky, or the general assembly, and shall at no time exceed the rate of tolls charged upon the Green and Barren river improvements.

Rates of tolls.

Banking priv-
ileges not to be
exercised.

§ 15. That nothing in this act shall be construed to give said company banking privileges, or to authorize them to issue bills of credit.

Property to be
taxed.

§ 16. All property belonging to the company shall be liable to their debts, and shall be listed for taxation by the president, in the same manner as the property of individuals.

State may pur-
chase out the
stock.

§ 17. The commonwealth shall have and now reserves the right to herself, at any time, to buy out the interest of said company in the locks and dams they may erect, by paying the original cost of construction, with six per cent. interest on the same, less the dividends which may have arisen from tolls : *Provided*, the company be not deprived or divested of any water power which they shall have employed in machinery.

When charter
to be forfeited.

§ 18. Said company are hereby required to commence the work upon said creek within seven years from the passage of this act, and to complete the navigation thereof to the town of Hartford by the first day of January, 1860, under a penalty of a forfeiture of their charter, and of all the rights and privileges by this act granted.

Approved December 2, 1851.

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CHAPTER 79.

1851.

AN ACT to amend the charter of the Shelbyville and Louisville Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the Shelbyville and Louisville turnpike road company to construct a branch of said road from some suitable point on the present road, and to enter the city of Louisville at the extension of Market street, or some other suitable and convenient point, so as to permit those traveling said turnpike road to avoid the Louisville and Frankfort railroad; and, for that purpose, said company are vested with the same rights and privileges that are given to said Louisville and Frankfort railroad company, by the act, entitled, an act to amend the charter of the Louisville and Frankfort railroad company, approved March 24, 1851; and may proceed to acquire the right of way for said branch, in all respects as therein provided; and said company, and the owners of land, shall have all the rights and privileges given by said act, in every respect.

Company may
branch their
road.

May acquire
right of way.

§ 2. That said company may agree with those owning lands through which said branch will pass, for the right of way and the construction of said branch, and their passage, with or without paying toll, as may be agreed upon in writing; and the privileges, if so expressed therein and recorded, shall be appurtenant to and pass with the land, in whole or in part, as may be agreed upon by the parties.

May agree for
the right of way,
and travel of
the owner.

§ 3. That said company may agree with the city of Louisville to yield up the jurisdiction and repair of that portion of their said road within the limits of said city, or any part thereof, upon such terms and conditions as the said company and the city shall, in writing, agree, and which shall be recorded in the office of the clerk of the Jefferson county court, and on the records of the city of Louisville, and have all the effect in law, as expressed in said writing.

May yield up
to city of Louis-
ville jurisdic-
tion of so much
of said road
within the city.

§ 4. That, for the purpose of making said branch, the said company may increase their capital, and sell stock to an amount not exceeding twenty thousand dollars.

Capital stock
may be increas-
ed.

Approved December 2, 1851.

CHAPTER 81.

AN ACT for the benefit of the Lancaster and Crab Orchard Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the president and directors of the Lancaster and Crab Orchard turnpike road company, be and they are hereby authorized to borrow any amount of money necessary for the completion of said turnpike road, and the payment of arrears due contractors of said road, not exceeding eight thousand dollars, at a rate of interest

Company may
borrow money--
rate of interest.

1851.

not exceeding ten per cent. per annum, and to pledge the said turnpike road for the ultimate payment of the sum or sums so borrowed by them.

May charge
toll at bridge
across Dick's
river.

§ 2. That said president and directors of said Lancaster and Crab Orchard turnpike road company are hereby authorized to charge a toll for all persons, stock, and vehicles crossing their bridge across Dick's river, in Lincoln county, at Owsley's old mill, not exceeding the toll authorized to be charged by the Danville, Lancaster, and Nicholasville turnpike road company, for crossing the bridge across Dick's river, at Bellow's old mill.

Approved December 2, 1851.

CHAPTER 82.

AN ACT in relation to Common School District No. 12, in Whitley county.

District No. 12
to be divided.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the common school commissioners of Whitley county shall divide school district No. 12, in said county, into two districts, so that the number of children in each shall be equalized, as nearly as may be.

Money of said
district to be di-
vided.

§ 2. That said commissioners shall divide the money which said district No. 12 may be entitled to receive from the school fund, and from the two cents tax, for the present year, equally between the two schools which were taught in said district for the year ending the 10th day of November, 1851.

Approved December 2, 1851.

CHAPTER 83.

AN ACT to incorporate Forest Spring College, in Allen county.

Corporator's
names.

Corporate
name and pow-
ers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James W. Martin, Burton Brown, Samuel Wagoner, Anozzi C. Alexander, James B. Evans, Selbey R. Evans, and William F. Evans, be and they are hereby created a body corporate and politic, with perpetual succession, to be styled and known as the trustees of the Forest Spring college, in Allen county, with full power to acquire, hold, and transfer property, real and personal, to make contracts, sue and be sued, plead and be impleaded, to make and have a common seal, and to alter the same at pleasure. That said property or funds shall never exceed in value thirty thousand dollars per annum, nor be directed to any other purpose than that of education.

Trustees may
make by-laws &
appoint neces-
sary officers.

§ 2. That said trustees shall have the power to make and ordain all necessary by-laws, rules, and regulations for the faithful government of said college: *Provided*, the same shall not conflict with the constitution and laws of

this commonwealth or of the United States. They shall also have power to appoint the necessary officers of said college; the necessary professors; and a majority of the trustees shall constitute a quorum to do business; and said board of trustees shall consist of seven members, who shall be elected by the holders of certificates of scholarships hereafter mentioned, either in person or by proxy, and who shall hold their office for one year, or until their successors are elected and qualified; said election shall be holden at such time and place as the trustees may ordain and direct.

1851.

Trustees, when elected, and term of service.

§ 3. Said body corporate shall have power to confer such literary honors, degrees, and diplomas upon the pupils of said college, as the president and professors of the several departments of learning may think them entitled to receive.

May confer degrees, &c.

§ 4. The trustees of said college, in order to raise means to sustain the same, may sell certificates of scholarship, in sums not less than fifty nor greater than one hundred dollars, upon such terms as they, or a majority of them, may prescribe, which scholarships shall not be subject to execution or attachment in the hands of the person or persons purchasing or holding the same, after purchase, but shall be exempt from all the debts of the holders thereof, except those created by the purchase thereof: *Provided, however,* that this section shall not be construed as conferring any banking privileges upon said trustees, or their successors in office, so as to issue bonds or bills for circulation or credit.

Trustees may sell scholarships.

Privileges granted.

§ 5. As the sole object of this institution is to promote education and intelligence, no preference in the selection of either teachers or officers of said institution shall be given to any one religious denomination over another, and nothing of a sectarian or political bias shall ever be attempted to be instilled into the pupils or students of said institute.

No preference to be given to religious denominations.

§ 6. The general assembly shall at any time have power to alter, amend, or abolish this charter, yet not to divest the institution of its property, or any part thereof.

Repealing power reserved.

Approved December 2, 1851.

CHAPTER 84.

AN ACT to change the lines in Magistrates' and Constable's District No. 1, in Lincoln county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the magistrates' and constable's districts in Lincoln county be so altered as to include the farms and residences of Griffin Edwards, William S. Pearl, and Rich-

1851. and Simpson in district No. 1, instead of the lines heretofore established.

Approved December 2, 1851.

CHAPTER 85.

AN ACT to legalize the proceedings of the Daviess County Court.

WHEREAS, it is represented to this general assembly that owing to the sickness of the presiding judge, no court of claims was held for the county of Daviess in the month of October last, as directed by law; and whereas, it is further represented that a court, composed of said presiding judge and a majority of the magistrates in commission in said county, was held in the town of Owensboro' on the second Monday in November last, and proceeded to audit the claims and lay the levy of said county. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the acts of the Daviess county court, constituted and held as aforesaid, be and the same are hereby legalized; and that all its said proceedings shall be as valid, in every respect, as if said court of claims had been held in the month of October, as directed by law.

Approved December 2, 1851.

CHAPTER 86.

AN ACT to create the offices of Police Judge and Marshal in the town of Shepherdsville.

Offices of police judge and marshal created.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the offices of police judge and town marshal are hereby created and established in the town of Shepherdsville, in Bullitt county.

Elected by the voters of said town; their term of office.

§ 2. That the said police judge and town marshal shall be elected by the qualified voters residing within the corporate limits of said town, at the same time, and in the same manner that the county judge and constables are elected; and the police judge shall continue in office for the term of four years, and the marshal for the term of two years, and until their successors are duly elected.

Officer holding election to be sworn.

Who may vote for said officers.

§ 3. That the officer holding said election, before he enters upon that duty, shall take an oath before some justice of the peace, similar to that taken by judges and clerks holding elections for state officers; and the qualifications of voters offering to vote for said judge and town marshal shall be the same as for state officers; and said voters shall be subject to all the pains and penalties that persons are now subject to under the general laws of this commonwealth for like offenses, and may be punished accordingly.

§ 4. That the officer holding said election shall make out

and sign a certificate showing the result, and hand the same to the clerk of the Bullitt county court, who shall record it in the deed book of said office; and said clerk shall receive such compensation therefor as is now allowed by law for similar services, to be paid out of the corporate funds of said town.

§ 5. That the clerk of said county court, so soon as he receives said certificate, shall forward, by mail, an attested copy thereof to the governor, so far as the election of said police judge is concerned; who shall thereupon issue a commission to the person thus returned elected as police judge of said town, and forward the same.

§ 6. That said police judge, when elected and commissioned as aforesaid, shall be a conservator of the peace throughout said county; his jurisdiction, both civil and criminal, shall be the same as that which is now or may hereafter be conferred by law on justices of the peace; he shall have power to sit as a court of inquiry in criminal cases, to grant injunctions, attachments in chancery, writs of *ne exeat* and *habeas corpus*, and receive returns of the same: *Provided*, that no defendant in any civil suit shall be compelled to go out of his justice's district to attend trial before said judge: *and, provided further*, that by removal out of the corporate limits of said town, said judge shall vacate his office. And, in the event said office is vacated, by death, removal, or resignation, then the proper officer may proceed, as in the second, third, and fourth sections of this act is prescribed, to hold an election to fill such vacancy.

§ 7. That the fees of said police judge shall be the same as now are, or may hereafter be allowed by law to justices of the peace for like services.

§ 8. That said police judge, so soon as he receives said commission, may enter upon the duties of said office; he shall keep a faithful record of all his official acts, in the same manner and mode as are now required by law of justices of the peace; and, for a failure herein, shall be subject to the same penalties as are now imposed by law upon justices of the peace for like offenses; and each successive judge, elected as aforesaid, shall deliver over to his successor all the official papers and records of said office; and, on failure, shall be subject to the penalties aforesaid.

§ 9. That said police judge, in the absence of the examiners, is hereby authorized to take depositions in the county of Bullitt, and certify the same, when they are to be read as evidence in any cause pending in any court, in or out of this commonwealth.

§ 10. That upon all judgments rendered by the said police judge, either party shall have the right to appeal, in the same manner that appeals are taken from the judgment of justices of the peace in similar cases.

§ 11. That said police judge, before he enters upon the

1851.

Certificate of election to be given.
Clerk's fee.

Clerk to forward copy to the governor.

Commission to issue.

Duties and jurisdiction of police judge.

Vacancies—how filled.

Fees of police judge.

Police judge to keep a record—penalty for failure.

May take depositions in certain cases.

Right of appeal from his decisions.

1851.

He shall take
an oath of of-
fice.

duties of his office, shall take an oath before the county judge or some justice of the peace for said county, faithfully and impartially to discharge the duties of the office of police judge in the town of Shepherdsville, according to law, and, in addition thereto, all oaths required to be taken by a judge or justice of the peace.

When election
to be held.

§ 12. The first election of police judge and marshal, under this act, shall take place on the first Monday in May next, and they shall continue in office until the next regular election for county judges and constables.

Copies of his
acts evidence.

§ 13. That a certified copy of the official acts, records, and proceedings of said police judge shall be evidence, and have the same effect as records of justices of the peace.

Marshal to take
oath of office,
and execute
bond.

§ 14. That said town marshal, when so elected, and said certificate furnished as aforesaid, shall take an oath, before he enters upon the duties of his office, in the county court for Bullitt county, and execute bond in said court, with good surety, in the penalty of two thousand dollars, similar to such bonds as are required of constables of this commonwealth; and any person damnified by the official acts of said marshal, may sue or motion thereon before any court having jurisdiction thereof, in the name of the commonwealth of Kentucky, for his or her use and benefit, or may motion before the police judge of said town, in the same manner, and under the same rules that motions are made before justices of the peace against constables.

Clerk may give
copies of said
bond.

§ 15. That the clerk of the Bullitt county court, as soon as said bond is executed, shall give attested copies of said bond to any person who may call for the same; which copy or copies, when so attested, shall have the same force and credit, in all courts of justice, as other records from said office are entitled to under existing laws; and the said clerk shall receive from said applicant or person applying for a copy of said bond, such fees as are allowed by law for similar services.

Duty, &c. of
marshal—his li-
abilities

§ 16. That said marshal shall be a conservator of the peace throughout said county; he shall have power and authority to execute all original, mesne, and final process issued by said police judge, or any justice of the peace for said county, in doing which he may go to any part of the county, and shall be governed, in the service and execution of process, by the same rules, regulations, and laws that now or may hereafter govern constables in the service and execution of process, and shall be liable for property or money held by process, or money collected; and may be proceeded against in the same manner now prescribed, or which may be prescribed by law in reference to constables.

Deliver papers
to successor.

§ 17. That each successive marshal, elected as herein directed, when he goes out of office, shall deliver to his successor such official papers as may need further official action.

§ 18. That the fees of said marshal shall be the same, in all cases, as those now allowed to constables for like services.

1851.
His Sec.

Approved December 2, 1851.

CHAPTER 87.

AN ACT for the benefit of Stephen Adams, Deputy Sheriff of Clarke county.

WHEREAS, Stephen Adams, of the county of Clarke, acted in the spring of 1851, for a short time, as commissioner of tax of said county, and since that time has been, and still is, acting as deputy sheriff for said county; and whereas, doubts exist as to the legality of his acts as deputy sheriff. Therefore, to remove said doubts,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the official acts of said Stephen Adams, as deputy sheriff as aforesaid, heretofore performed; are hereby legalized, and the disability to act as deputy sheriff is removed as to the said Adams.

Approved December 6, 1851.

CHAPTER 88.

AN ACT for the benefit of John Friend and Jacob Fitzpatrick.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John Friend, former sheriff of Floyd county, and Jacob Fitzpatrick, his deputy, be allowed the further time of two years to collect their arrearages of tax, county levy, and fee bills in their hands for collection, for the years 1847 and 1848.

Approved December 6, 1851.

CHAPTER 89.

AN ACT to amend an act, entitled, an act incorporating the town of Livermore, in Ohio county, and for other purposes.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That an act, entitled, an act incorporating the town of Livermore, in Ohio county, and for other purposes, be so amended as to authorize the legal voters of said town to elect trustees therefor, agreeably to the provisions of said act, on the last Saturday in December, 1851, and said trustees, so elected, shall hold their offices until their successors are qualified; the next election shall be on the first Monday in May following.

Trustees; when to be elected.

§ 2. That the offices of police judge of the town of Livermore, and of marshal of said town, be and the same are

1851.

Offices of police judge and marshal created—their jurisdiction and powers.

When to be elected.

hereby created, and said officers are hereby invested with the same power and authority, both in civil and criminal cases, and subject to the same penalties, as the police judge and marshal of the town of Hartford, and shall be governed in all respects by the several acts in relation to the office of police judge of Hartford, and the act creating the office of marshal of the town of Hartford: *Provided*, that the election of said officers shall be held at some convenient house in the town of Livermore, and to be voted for only by the legal voters resident in said town; *And, provided also*, that the first election shall take place on the last Saturday in December, 1851; and the officers then elected shall hold their respective offices until the time prescribed in the several acts above referred to for the regular election for the similar officers in the town of Hartford.

Approved December 6, 1851.

CHAPTER 90.

AN ACT authorizing portions of the state road in Kenton county to be closed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the owners of land lying and being on that part of the old state road, in Kenton county, that lies between Covington and the town of Independence, be and they are hereby authorized to close up such parts of said state road as have been rendered useless by the Bank Lick turnpike road, and such other parts of said road as are now not used and occupied as a public road.

Approved December 6, 1851.

CHAPTER 91.

AN ACT authorizing the Ohio County Court to establish a new Election Precinct and change the boundaries of others in said county.

May establish another justice's district, and change voting places.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That in the year 1852, the county court of Ohio county shall have power to establish an additional justices' and constable's district and election precinct in said county, and to alter and change the boundary or place of voting in any district in said county, a majority of the magistrates being present and agreeing to the same. That they shall make a record of the boundary and place of voting of such new district, and of such changes as they shall make in the present districts, in their court, and the clerk shall forward a copy thereof to the secretary of state.

When election for magistrate and constable held.

§ 2. That no election for justice of the peace or constable shall take place in the district which may be formed until the next general election for justices of the peace; and

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in case a vacancy should occur in either office, it shall be filled by the voters of the district included in its original boundary.

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Approved December 6, 1851.

CHAPTER 92.

AN ACT declaratory of the power of the city of Lexington to tax Insurance Companies and Lottery Offices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky; That the first section of an act, entitled, an act to amend the charter of the city of Lexington, approved February 26, 1847, empowering the mayor and council to require of insurance companies and their agents, doing business as such in said city, and of lottery offices and their agents, to take out license, be and the same is hereby declared to be in full force and operation, notwithstanding any constructive effect to the contrary of an act to reduce into one the acts incorporating the city of Lexington, approved December 21, 1850.

Approved December 6, 1851.

CHAPTER 93.

AN ACT to incorporate Caseyville Lodge, No. 168, of Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the members of Caseyville Lodge, No. 168, of ancient free and accepted York masons, be and they are hereby created a body politic and corporate, by the name and style of Caseyville Lodge, No. 168, with perpetual succession; and by that name shall be capable of contracting and being contracted with, of suing and being sued, of purchasing and holding all such real and personal estate as may be required for the use and accommodation of said lodge.*

Members incorporated.

Corporate name and powers.

§ 2. They shall have power to receive all necessary conveyances, to sell, convey, and dispose of all such real and personal estate as they may now have or hereafter acquire: *Provided*, the amount vested in real estate, exclusive of buildings thereon, shall at no time exceed the sum of ten thousand dollars.

May hold real estate.

§ 3. They shall have power to make, use, and have a common seal, and the same to break or exchange at their will and pleasure.

Have a seal.

§ 4. That the management of the concerns of said corporation shall be and is hereby confided to the present master and wardens of said lodge, and their successors in office, as trustees thereof, who shall have power to make all

Who to act as trustees. Their powers.

1851.

contracts pertaining to the real and personal estate, in every respect, either in purchasing, building, renting, or for any other purpose, which shall be binding and obligatory upon said lodge, when made in pursuance of the rules and by-laws of said lodge; and service of process or notice on any of said trustees shall be sufficient notice to said corporation.

May make by-laws, &c.

§ 5. That said lodge may at any time pass such by-laws, rules, and regulations, for the protection, management, and safe-keeping of the property of said lodge, as they may deem necessary, provided they be not inconsistent with the constitution and laws of this state; and any money received for any trespass or injury done on or to the property aforesaid, shall be for the use and benefit of said lodge, and shall be so applied.

Repealing power reserved.

§ 6. That the object of this act of incorporation is only to enable said lodge to hold and manage the property thereof, and this act and the powers hereby granted shall not be employed for any other purpose; and the general assembly hereby reserves the right to change or repeal this act at pleasure.

Approved December 6, 1851.

CHAPTER 94.

AN ACT to incorporate Clay Lodge, No. 38, Independent Order of Odd Fellows.

Members incorporated.

Corporate name and powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That George W. Saunders, James N. Strain, Culvin Sanders, Thomas C. Threlkill, and John Hope, and their associates, members of Clay Lodge, No. 38, independent order of odd fellows, in Clayville, be and they are hereby created a body politic and corporate, by the name and style of Clay Lodge, No. 38, independent order of odd fellows, with perpetual succession; and by that name and style shall be capable, in law, to have and use a common seal, sue and be sued, plead and be impleaded, to answer and defend in all courts and elsewhere, as natural persons, and may ordain and put in execution such by-laws, rules, and regulations for its government, and the management of its affairs, and may change and renew the same as they may deem proper: *Provided*, they be not contrary to the constitution and laws of this state or of the United States.

May hold real estate.

May create a widow's fund.

§ 2. The said corporation shall have power to acquire and hold real and personal estate, not exceeding thirty thousand dollars in value, and from time to time, if deemed expedient, may sell and convey the same, or any part thereof, and reinvest or dispose of the proceeds. They may create a fund in the same manner, for the benefit of the

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widows and orphans of members of the corporation, sufficient to yield an annual income not exceeding three thousand dollars, and make and change the laws and rules for its management and distribution.

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§ 3. The said corporation shall have power to establish a school and a library, or either, and to acquire and hold, for that purpose, in the manner named in the preceding section, a fund for the support of the same, or either, sufficient to yield an annual income not exceeding five thousand dollars; and to appoint suitable teachers, stewards, and other necessary officers, and to remove them at pleasure; and may ordain, execute, and change all laws, rules, and regulations, which it may deem necessary and proper, so that they be not contrary to the constitution and laws of this state or of the United States.

May establish
a school and li-
brary.

§ 4. The power to change, alter, or repeal this act is hereby reserved to the general assembly.

Repealing pow-
er reserved.

Approved December 6, 1851.

CHAPTER 95.

AN ACT to incorporate the town of Eminence.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town of Eminence, in the county of Henry, be and the same is hereby incorporated, with such boundaries, streets, alleys, and other public grounds as may be laid out and defined in a survey and plat of said town; to be deposited for record in the office of the clerk of the Henry county court, on or by the first day of May, 1852.

Town incor-
porated.

§ 2. That Nathan J. Wells, William B. Wilson, Grandison P. Owen, George W. Bashaw, and L. E. Brown, and their successors, under the name and style of the board of trustees of the town of Eminence, be and they are hereby empowered, as a body politic and corporate, for and on behalf of the said town of Eminence, to purchase, hold, lease, sell, and convey any real, personal, or mixed estate, not exceeding in value the sum of fifty thousand dollars; to make any ordinances or by-laws, not in contravention of the laws of this commonwealth or of the United States, which they may deem necessary for the regulation and government of said town; to levy and collect such tax as they may deem fit, from the citizens of said town, or on all the property found and being within the limits of said town, not exceeding one dollar on each tithable citizen, nor twenty-five cents on each hundred dollars worth of property, and the same to expend within the corporate boundaries of said town, in such public improvement as will, in their judgment, best promote the interests thereof; to sue and be sued, plead and be impleaded, have and use

Trustees ap-
pointed.

Corporate
name and pow-
ers.

1851.

a common seal, and the same to make, renew, or abolish at pleasure; and to do and enjoy all the rights and privileges which such other incorporations, by the laws of this commonwealth, of right have and exercise.

Term of trustee's office; time of election.

§ 3. That the trustees aforesaid shall hold office until the first Saturday in May, 1852, and until their successors are elected; and on the first Saturday in May aforesaid, and on the same day of every year thereafter, it shall be the duty of the trustees in office, having given public notice at least ten days previous, to open and hold an election for trustees of said town; at which election every male citizen above the age of twenty-one years, who may have resided within said town for the space of six months, shall be entitled to vote, or be voted for, and every such citizen residing out of said town and within the commonwealth of Kentucky, but owning and holding property within said corporation, shall be entitled to vote; and each voter shall be entitled to vote for five persons for trustees, and the five persons receiving the largest number of votes shall be declared elected said board of trustees of the town of Eminence.

Trustees may appoint a president and other officers.

§ 4. That the trustees of the town of Eminence shall have power to appoint a president of said board, a clerk, who shall keep a fair record of the proceedings of said trustees, and receive such compensation as they may allow; and a collector, with such powers and duties as they may assign, as the agent of the board.

Suit; how instituted for breach of town laws.

§ 5. That for any breach of the by-laws of said corporation, the trustees may prosecute, by warrant in the name of the commonwealth, for the use of said trustees, and for refusal to pay any tax or other levy, may prosecute directly in the name of the board of trustees of the town of Eminence, against said party refusing, before any justice of the peace for Henry county; and in either form of such prosecution, the justice shall not be required to await the term of his quarterly court, but may summon parties, and hear and determine the case as soon as practicable.

Quorum of trustees.

Vacancies; how filled.

§ 6. A majority of the board of trustees of the town of Eminence shall constitute a quorum to do business, and all the powers given said board may be exercised by such majority; and should any trustee or trustees vacate their said office by death, removal, resignation, or otherwise, a majority of the remaining trustees may appoint a suitable person or persons to fill said vacancy or vacancies for the remaining portion of his or their term; and every board shall hold office until their successors are elected and installed.

Trustees to take oath of office.

§ 7. Each trustee, or other officer, before entering upon the duties of his office, shall take an oath faithfully to execute the duties of his said office, according to law, to the best of his knowledge and ability; and the board of trus-

tees may require of other officers or agents, a bond or bonds, in such penalties as they may deem fit, conditioned to the faithful execution of their said office or trust; and such bond or bonds shall be valid in law, and the damages thereon, in case of forfeiture, recoverable by suit, in the name of said trustees, before any court having competent jurisdiction thereof.

Approved December 6, 1851.

CHAPTER 96.

AN ACT to incorporate Pitman Lodge, No. 124.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of Pitman lodge, No. 124, of free and accepted masons, of Taylor county, be and they are hereby created a body politic and corporate, by the name and style of Pitman Lodge, No. 124, of free and accepted masons, with perpetual succession; and by that name shall be capable of contracting and being contracted with, of suing and being sued, of purchasing and holding all such real and personal estate as may be required for the use and accommodation of said lodge; may have and use a common seal, and break or alter the same at pleasure; they shall have power to receive all necessary conveyances, and may sell, convey, and dispose of all such real and personal estate as they may now have, or hereafter acquire: *Provided*, the amount vested in real estate, exclusive of buildings thereon, shall at no time exceed the sum of ten thousand dollars.

§ 2. That the management of the concerns of said corporation shall be and is hereby confided to the present master and wardens of said lodge, and their successors in office, as trustees thereof, who shall have the power to make all contracts pertaining to the real and personal property in any respect, either in purchasing, building, renting, or for any other purpose, which shall be binding and obligatory upon said lodge, when made in pursuance of the rules, by-laws, and instructions of said lodge; and service of process or notice on any of said trustees shall be sufficient notice to said corporation.

§ 3. That said lodge may, at any time, pass such by-laws, rules, and regulations, not inconsistent with the constitution and laws of this state, as may be necessary for the protection, management, and safe-keeping of the property of said lodge; and any money received for any trespass or injury done on or to the property aforesaid, shall be for the use and benefit of said lodge, and shall be so applied.

§ 4. That the object of this corporation is only to enable said lodge to hold and manage the property thereof,

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May require bond of other officers.

Members incorporated.

Corporate name and powers.

Who to be justices; their powers.

May enact by-laws, &c.

Resolving power reserved.

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and this act, and the powers hereby granted, shall not be employed for any other purpose; and the general assembly hereby reserves to itself the right to change, alter, or amend this act at pleasure.

Approved December 6, 1851.

CHAPTER 97.

AN ACT for the benefit of the Sheriff of Garrard county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Garrard county be allowed until the first day of February, 1852, to return his delinquent list for the year 1851.

Approved December 6, 1851.

CHAPTER 98.

AN ACT changing the time of holding the Court of Claims in Oldham county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the court of claims for Oldham county shall be held on the third Monday in May in the year 1852, and on the third Monday in May in every year thereafter; and all acts and allowances of said court shall be valid and legal.

Approved December 6, 1851.

CHAPTER 99.

AN ACT for the benefit of the town of Lebanon, in Marion county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, all fines and penalties imposed within the town of Lebanon, and within one-half mile thereof, which are not otherwise expressly appropriated by law, be and they are hereby appropriated to the trustees of said town, for the purpose of building a large cistern in the court house yard, to contain water for the use of the public; and said fines shall not be used for any other purpose whatever, until such cistern be completed.

Approved December 6, 1851.

CHAPTER 102.

AN ACT to amend the charter of the Louisville and Covington Railroad Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act, entitled, an act to incorporate the

Louisville and Covington railroad company, he and the same is hereby so amended that the commissioners appointed to receive subscriptions of capital stock to said company, shall give at least twenty days notice of the time and place of opening books for said subscriptions, and shall be required to keep said books open at least twenty days consecutively, and at least four hours in each day: *Provided*, nothing herein shall prohibit said commissioners from, and it shall be their duty to receive *bona fide* subscriptions to capital stock, when tendered them, at any other time and place than that advertised.

1851.

Approved December 8, 1851.

CHAPTER 104.

AN ACT changing the time of holding the Court of Claims in Mason county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the presiding judge of the county court and justices of the peace of Mason county, shall hereafter hold their court of claims at the court to be held in the month of May in each year; instead of the time now prescribed by law; and that at the May court, 1852, the said judge and justices shall receive the claims against the county that shall be then presented, and allow them according to law, in addition to the claims allowed at the last November term of said court, and shall levy a poll tax to pay the same, on the tithes returned by the assessor of tax for the year 1852: *Provided*, the said levy shall not exceed one dollar and fifty cents on each tithe, as heretofore allowed by law.

Approved December 6, 1851.

CHAPTER 105.

AN ACT for the benefit of Mahlon Pruden, and others.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there be paid out of the public treasury the following sums of money: To Mahlon Pruden; for a block of marble cut by him for the Washington monument, now erecting in the city of Washington, one thousand eight hundred dollars; to Edgar Needham, who was sent by the governor from Louisville to Lexington to examine said block, twenty dollars; to William T. Bolles, who was sent by the governor from Frankfort to Lexington to examine said block, seven dollars and fifty cents.

Pruden.

Needham.

Bolles.

§ 2. That before said Pruden is paid said sum of one thousand eight hundred dollars, allowed to him in the first section of this act, he shall execute bond, in the following

1851.

Shall execute
bond for deliv-
ery.

office, with three or more good securities, to be approved by the governor, in the penalty of three thousand six hundred dollars, to deliver said block of stone, safe, to William Dougherty, superintendent of the work in erecting said monument, and bring to the secretary the said superintendent's receipt that said block was safely delivered; and on failure to do that, then said bond shall bind said Pruden and securities to refund to the treasury said one thousand eight hundred dollars.

Woodhous.

§ 3. That there be paid out of the treasury, to Edgar Needham, the further sum of seven dollars and fifty cents, mileage and attendance as a witness before the committee on claims, by order of a resolution of the house of representatives.

Power dele-
gated to the gover-
nor.

§ 4. That should said Pruden refuse, within twenty days after the approval of this act, to notify the secretary of state of his acceptance of the appropriation and terms thereof, as a just compensation for the preparation and delivery of said block, as herein specified, then and in that case the governor is requested to engage some other competent person to prepare and deliver another suitable block, with an appropriate inscription, as soon as practicable: *Provided*, the amount of cost and transportation of the same to the city of Washington shall not exceed the sum of fifteen hundred dollars.

Approved December 9, 1851.

CHAPTER 106.

AN ACT for the benefit of the Sheriff of Breathitt county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Breathitt county be and he is hereby allowed the further time of three months after the first day of January next to return his delinquent list, and pay into the treasury the revenue tax due by him for the year 1851: *Provided*, that the sureties of said sheriff, on or before the tenth day of January next, file in the office of the clerk of the Breathitt county court their assent, in writing, to the indulgence hereby granted, and a copy of said assent shall be filed with the auditor of public accounts by the clerk of said county court.

Approved December 13, 1851.

CHAPTER 107.

AN ACT for the benefit of Elisha Breeding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, Elisha Breeding, former sheriff of Letcher county, have

the further time of six months to collect all tax and fees due him.

1851.

Approved December 13, 1851.

CHAPTER 108.

AN ACT authorizing William Garrard to build a fish dam and trap across main Licking river.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That William Garrard be and he is hereby authorized to build a fish dam and trap across main Licking river, adjacent to land owned by him: *Provided*, said dam and trap be not over two and a half feet high: *And*; *provided further*, that the county court of Harrison county may cause him to remove said dam and trap, whenever it may be found that they are injurious to the navigation of said stream, or otherwise.

Approved December 13, 1851.

CHAPTER 109.

AN ACT for the benefit of the Sheriff of Butler county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Butler county have until the first day of March next to return to the auditor of public accounts his delinquent list.

Approved December 13, 1851.

CHAPTER 110.

AN ACT for the benefit of John Wallis.

WHEREAS, by the second section of an act, entitled, an act to reduce into one the several acts in relation to the town of Danville, and for other purposes, approved February 16, 1846, it is required that no one shall be elected trustee of said town, except he shall have resided therein one year next preceding the regular election of trustees thereof, and be a freeholder therein; and it being represented that John Wallis, who has been for several years a trustee of said town, by a removal therefrom has forfeited his right to hold said office; and the said Wallis having now returned to said town, and the citizens thereof being desirous, in consideration of his distinguished services, to elect him to said office. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said John Wallis is permitted to hold the office of trustee of Danville, if elected at the next regular

1851.]

election; and said election shall be as legal and effectual as if he had resided one year next preceding said election therein, and as if he were a freeholder in said town.

Approved December 13, 1851.

CHAPTER 111.

AN ACT for the benefit of the Sheriff of Pendleton county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That N. D. Wheeler, late sheriff of Pendleton county, shall have until the first day of January, 1853, to collect all arrearages of tax and county levies in said county, for the years 1848, 1849, 1850, and 1851, as well as all fees and fee bills due him for services rendered in the years aforesaid; and he may list the same with the several constables of said county, or any of them, for collection, who shall have full power to collect the same by distress, and to be accountable therefor in the same way as for executions delivered, or moneys collected under executions.

Approved December 13, 1851.

CHAPTER 112.

AN ACT for the benefit of certain School Districts in Barren and Menree counties.

Barren county.

WHEREAS, the legislature of Kentucky passed an act upon the subject of common schools, approved 1st of March, 1850, by which it was provided that all common school districts in the state which had not, prior to that year, organized and taught schools under the common school system, that would so organize and cause to be taught, under said system, a school of six months term, within the year 1850, and report the same to the school commissioners, as required by law, should be entitled to draw and receive from the school fund their proportionate part of the fund for the years 1849 and 1850. And it appears that in the spring of the year 1850 there was organized in the county of Barren a school district, numbered by the commissioners twenty-one, in which there was a school for the term of six months taught in that year, and regularly reported as required by said act; and the superintendent of public instruction, in his report for the year 1850, in apportioning the money due to each school district, any part of the funds divisible for the year 1849, as by said act it was entitled to receive; for the reason that a school district in said county, bearing the same number, had been reported to him as organized and in operation within the year 1849; and whereas, it appears that the school district No. 21, reported to him in the year 1849, was changed to No. 04, by the commissioners of said

county, and a new one formed and numbered 21, in which no school was taught in the year 1849, and that, therefore, the school district No. 21, reported in 1850, was entitled to its portion of the funds for 1850 and 1849, under the provisions of said act. Therefore,

1851.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the superintendent of public instruction be and he is hereby directed to draw his draft upon the auditor of public accounts for the amount to which said district is entitled of the school fund for the year 1849, according to the act aforesaid; and the same is directed to be paid.

And whereas, it is represented that in common school district No. 16, in Monroe county, a school is being taught under the common school system; but that, on account of the sickness of the teacher, the school had not been in session three months prior to the 10th of November, 1851. Therefore,

Monroe county

§ 2. *Be it enacted*, That the trustees of said district be allowed till the 20th of December next to make out and file their report to the school commissioners of said county, who may thereupon report the same to the superintendent; and the fact that said school was not finished on 10th November, shall be no barrier to said district receiving its share of the school fund for the year 1851; and the superintendent is directed to act under the report of said district to him, as though the same had been reported in due time.

Approved December 13, 1851.

CHAPTER 114.

AN ACT declaring the Open Fork of Paint Creek and Abbott Creeks navigable streams.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Open fork of Paint creek, in Morgan county, Kentucky, be and the same is hereby declared a navigable stream, up to the mouth of Smith's creek.

§ 2. That Abbott creek, in Floyd county, be and the same is hereby declared a navigable stream up to Francis A. Brown's.

Approved December 13, 1851.

CHAPTER 115.

AN ACT for the benefit of the Owenton and Ross's Mill Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That on the completion of two or more consecutive miles of the Owenton and Ross Mill turnpike

1851:

road, the president and directors of said road company shall have the right to erect a turnpike gate and charge for the travel on said road, so completed, a fair proportionate rate of toll.

§ 2. That the county court of Owen county shall have power to abolish that part of the state road from Owenton to Eagle creek, that runs parallel with said turnpike road, as the same is completed.

Approved December 13, 1851. :

CHAPTER 117.

AN ACT to amend the several acts regulating the election of trustees of the town of Scottville.

Presiding
judge to hold
elections of trustees.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, it shall be the duty of the presiding judge of the Allen county court to hold all elections for the election of trustees for the town of Scottville; and so much of all acts as requires the clerk of said court to hold said elections, are hereby repealed. Said presiding judge shall hold said elections at the same time and place, and in the manner that said clerk was required to hold them previous to the passage of this act, and in all respects shall be governed therein by the existing laws providing for and regulating the election of trustees for said town, not inconsistent with this act; for which services said judge shall be allowed one dollar and fifty cents for each election he shall hold, by virtue of this act, to be paid by said trustees out of any money in their hands, as trustees of said town. Said presiding judge shall give the trustees elected under this act certificates of their election, before they enter upon the duties of their office. The duties, liabilities, rights, and privileges of the trustees elected under this act, shall, in all respects, be the same as provided in the several acts now in force, providing for the election of trustees for said town.

His fees.

Who are entitled to work the streets of said town.

§ 2. That all male citizens between the ages of sixteen and fifty years old, living within one-half mile of said town, shall aid in working the streets of said town, and, for that purpose, shall attend and work on said streets whenever notified by said trustees; and, on failure to do so, shall forfeit and pay to said trustees one dollar and twenty-five cents for each day he or they shall so fail, having received one day's notice, by any of said trustees, of the time of working, which amount shall be recoverable before any justice of the peace having jurisdiction thereof; and said trustees shall have the right to agree with any person or persons as to the amount of labor he, she, or they are required to perform under this act, and receive the same in

Trustees may commute for pay the liabilities to work the streets.

LAWS OF KENTUCKY.

407.

Franklin county be so changed as to include the residence of Kean O'Hara in the Frankfort precinct.

1851.

Approved December 13, 1851.

CHAPTER 121.

AN ACT declaring Griffey's Creek navigable.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Griffey's creek, in Lawrence county, be and the same is hereby declared navigable from its mouth to its source: *Provided*, nothing herein contained shall be construed so as to interfere with Joseph Peck's mill, or mill dam, or his right to use, repair, or re-build the same, or with any other mill or mill-dam on said creek.

Approved December 13, 1851.

CHAPTER 122.

AN ACT for the benefit of Joseph Curd, of Jessamine county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Joseph Curd, of Jessamine county, be and he is hereby permitted to stretch a rope across the Kentucky river, at Lewis' old ferry, for the purpose of guiding and navigating his ferry-boat: *Provided*, that the same be placed at least twenty feet above high water.

Approved December 13, 1851.

CHAPTER 123.

AN ACT to authorize a change in the State Road in Todd county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the Todd county court shall have power to change so much of the state road leading from Louisville to Hopkinsville, as runs through the lands of Thomas R. J. Clark, of Todd county: *Provided*, that said court, in making such change, shall be governed by the general laws now in force in relation to roads in this commonwealth: *And, provided further*, that before any change shall be made, the proposed road shall be opened out and put in good order.

Approved December 13, 1851.

1851.

Trustees grant-
ed corporate
powers.May levy tax
and appoint col-
lector.Duty and pow-
er of collector—
he shall execute
bond.Trustees may
appoint a clerk,
his duties.Majority of
trustees to act.Vacancies—
how filled.Officers to take
an official oath.

persons, by vote, *viz* 2002, to serve as trustees of said town for one year, and until their successors are duly elected and qualified.

§ 3. That said trustees, and their successors in office, are hereby appointed to be a body corporate and politic, with power to enact ordinances, by-laws, and regulations for the government of said town, not inconsistent with the constitution and laws of this state or of the United States; to levy a tax on the real and personal estate and tithes of said town; to appoint an assessor to value said property and make a list of all the tithes, and a collector to collect the tax, to be appropriated by the trustees to meet the ordinary expenses of said town, and for the improvement thereof: *Provided*, that the tax shall not exceed the sum of twenty cents on the hundred dollars worth of property, and fifty cents on each tithe, within the boundary of said town, in any year.

§ 4. That said collector shall have power to collect the taxes assessed; and for that purpose may make distress and sales, as sheriffs are now allowed by law to collect the revenue of this state. The trustees shall require him to give bond, with security, and shall make him a reasonable compensation for his services.

§ 5. That the trustees may appoint a clerk, whose duty it shall be to keep a fair record of the proceedings of the board of trustees. He shall give public notice, by advertisement, in said town, of any election of trustees, at least ten days before such election; and it shall be his duty to conduct such elections, to determine the qualifications of the voters, to declare the persons elected, and to record the same.

§ 6. It shall require the concurrence of a majority of the trustees to exercise the powers granted in this act, and in the event of a failure to make an election on the first Saturday in March, 1852, the trustees herein appointed shall continue in office until their successors are duly elected. Said trustees shall have power to fill all vacancies in their own body, occurring between the times of election.

§ 7. The said trustees, assessor, collector, and clerk, authorized by this act, shall take an oath, before some justice of the peace of Ballard county, well and truly to perform the duties of their respective offices; before entering upon the same.

Approved December 13, 1851.

CHAPTER 120.

AN ACT for the benefit of Keau O'Hara.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, the lines of the election precincts of

LAWS OF KENTUCKY.

Franklin county be so changed as to include the residence of Kean O'Hara in the Frankfort precinct.

1851.

Approved December 13, 1851.

CHAPTER 121.

AN ACT declaring Griffey's Creek navigable.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Griffey's creek, in Lawrence county, be and the same is hereby declared navigable from its mouth to its source: *Provided*, nothing herein contained shall be construed so as to interfere with Joseph Peck's mill, or mill dam, or his right to use, repair, or re-build the same, or with any other mill or mill-dam on said creek.

Approved December 13, 1851.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Joseph Curd, of Jessamine county, be and he is hereby permitted to stretch a rope across the Kentucky river, at Lewis' old ferry, for the purpose of guiding and navigating his ferry-boat: *Provided*, that the same be placed at least twenty feet above high water.

Approved December 13, 1851.

CHAPTER 123.

AN ACT to authorize a change in the State Road in Todd county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the Todd county court shall have power to change so much of the state road leading from Louisville to Hopkinsville, as runs through the lands of Thomas R. J. Clark, of Todd county: *Provided*, that said court, in making such change, shall be governed by the general laws now in force in relation to roads in this commonwealth: *And, provided further*, that before any change shall be made, the proposed road shall be opened out and put in good order.

Approved December 13, 1851.

1851.

CHAPTER 124.

AN ACT to change the time of holding the Court of Claims in Bath county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the court of claims for the county of Bath shall hereafter be held on the second Monday in December in each year, instead of the second Monday in October, as now provided by law.

Approved December 13, 1851.

CHAPTER 125.

AN ACT to incorporate Proctor Division, No. 205, Sons of Temperance.

Corporators
named.

Corporate
name and pow-
ers.

Trustees to
manage affairs.

Term of office;
time of election.

Power of trust-
ees.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James F. Blount, George S. Williams, William Mize, W. S. Cole, Joseph H. Davis, and their successors in office, be and they are hereby incorporated into a body politic and corporate, by the name and style of Proctor Division, No. 205, Sons of Temperance, with perpetual succession; and by that name shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, and purchasing, holding, selling, and conveying all such real and personal estate as may be required for the use of said division: *Provided*, the amount vested in real estate, including the buildings thereon, shall not, at any time, exceed ten thousand dollars.

§ 2. That the management of the affairs of said corporation shall be and is hereby confided in five trustees, and their successors in office; who, or a majority of whom, shall have power and authority to make all contracts pertaining to said division; and may have and use a common seal, and the same to change at pleasure; and make all such by-laws and regulations as they may deem proper for the management of said division: *Provided*, the same be not contrary to the laws and constitution of this state and of the United States. That the corporators named in the first section of this act, shall hold their office until the first Saturday of April, 1852, and until their successors in office are elected; and it shall be the duty of the members of said division, on that day, and on the first Saturday of April of every succeeding year, to elect five members of of said division to act as trustees for one year, and until their successors are elected. Service of process or notice on any two of the trustees shall be sufficient in any and all cases of procedure or suit against said division.

§ 3. That said trustees are hereby vested with power to enforce payment, by law, of any amount that may be owing by any of its members or officers. A majority of said

trustees can act in any matter they may be called upon to act in.

1851.

§ 4. The general assembly hereby reserves the right to repeal or modify this act at pleasure.

Repealing power reserved.

Approved December 12, 1851.

CHAPTER 126.

AN ACT to change the place of voting in the Worthville District, in Carroll county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the Worthville, or third justices' district, in Carroll county, be and the same is hereby changed from the house of William Anderson to the house of Lewis L. Fleming, in said district; and that all elections in said district shall hereafter be held at the house of the said Fleming, and shall be conducted under the laws now in force on the subject of elections.

Approved December 13, 1851.

CHAPTER 127.

AN ACT to authorize the Clerk of the Logan County Court to transcribe and have re-bound certain record books.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the clerk of the Logan county court to transcribe correctly into well bound record books, to be procured by him for that purpose, the contents of such dilapidated deed books in his office as may require transcribing, for the preservation of the same, and also to have such other deed or record books in his office re-bound as may require it; and it shall be the duty of the county court of said county, at their court of claims, to allow him a reasonable compensation therefor, to be paid out of the county levy: *Provided,* that previous to the transcribing thereof, the presiding judge of the Logan county court shall examine said books, and, by an order entered up in open court, direct what books shall be so transcribed.

§ 2. That when said books shall be correctly transcribed, as herein directed, they shall have the same force and effect, in law, as original records, and attested copies thereof may be given in evidence in any court of record, as if they had not been so transcribed.

Approved December 13, 1851.

1851.

CHAPTER 128.

AN ACT to authorize the Clerk of the Henderson County Court to transcribe and index certain records in his office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the clerk of the Henderson county court is hereby authorized to transcribe any of the records in his office into new books, to be provided by him for that purpose; and such transcribed records shall be held and regarded in all respects as though they had been originally recorded in said books; and said records shall be cross indexed. Said clerk is also authorized to make a general index to all deeds recorded, and to all deeds so transcribed in his office, in a new book to be by him procured for that purpose; and the county court of said county is hereby authorized and required to levy such sum or sums as may be necessary to pay said clerk for transcribing said records and making said indexes, and for such books as he may necessarily purchase for the purposes aforesaid.

Approved December 13, 1851.

CHAPTER 129.

AN ACT in relation to the records of the Jefferson County Court.

WHEREAS, the county court of Jefferson county heretofore directed and ordered the clerk thereof to extend the general index of deeds in his office, from the year 1838 to 1848, and the clerk proceeded to do so, but a doubt exists as to the power of the court to make the order. Wherefore,

Order of court directing clerk to index records to be indexed legalized.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the order of said court, directing the clerk to extend the index aforesaid, be and it is hereby legalized, and declared to be as binding as if made under the express command of the law.

Judge may order clerk to index certain records.

§ 2. That it shall be lawful for the judge of said court, if to him it shall seem proper, to cause and direct the clerk thereof to make out general indexes of all deeds and powers of attorney heretofore or hereafter recorded in his office, from time to time, as they may be required.

Judge may direct books to be bound.

§ 3. That it shall be lawful for the judge of the county court of Jefferson county, if to him it shall seem expedient, to direct any of the deed or will books in the office of the clerk thereof to be by him re-bound or transcribed.

§ 4. That the justices of said county, and the judge of said court, sitting at the levy term thereof, shall make the said clerk a reasonable compensation for re-binding and transcribing said books, and for making and extending the indexes mentioned in this act, payable out of the county levy, two-thirds whereof shall be paid to the said county of Jefferson by the city of Louisville.

Approved December 12, 1851.

LAWS OF KENTUCKY.

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CHAPTER 130.

1851.

AN ACT allowing a special term of the Fleming County Court.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the judge of the Fleming county court is hereby authorized to hold a special term for the trial of all causes, in law and in equity, on the docket of the judge of said court, on the fourth Monday in December, 1851, to continue so long as the business may require.

Special term of court.

§ 2. That when the judge of said county court of Fleming may be absent from the county, or interested in any matter occurring before said court, or prevented from holding said court by sickness, it shall be lawful for the members of the bar of said court to elect a judge to supply such vacancy, in the manner now prescribed by law in the circuit courts of this state, and that the adjudications of the party so elected shall have the same force and effect as if rendered by the judge of said court.

Members of the bar may elect a judge.

Approved December 13, 1851.

CHAPTER 131.

AN ACT to incorporate the Polish House of Israel.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of the "Polish house of Israel, in the city of Louisville," and their successors forever, be and they are hereby constituted a body politic and corporate, by the name and style of "the Polish house of Israel, in the city of Louisville," for the purpose of improving each other in a knowledge of the religion of the Polish Israelites, according to their peculiar customs, and in the practice of the same, not inconsistent with the constitution and laws of the United States and the state of Kentucky.

§ 2. The said body politic and corporate shall have a common seal, and shall have power to contract and be contracted with, to sue and be sued, to plead and to be impleaded, and to receive, hold, and convey property, real and personal, the annual value whereof shall not exceed ten thousand dollars.

May have a common seal right to sue, &c.

§ 3. The said body politic and corporate shall have power and authority to form a constitution, to make by-laws, and to establish any and all such rules and regulations for its government and conduct as it may think necessary and proper, not in conflict with the constitution and laws of this state and the United States.

§ 4. The general assembly reserves to itself the right at all times to alter or repeal this act.

Approved December 13, 1851.

1851.

CHAPTER 132.

AN ACT to incorporate the Winchester and Kiddville Turnpike Road Company.

Company created. § 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company is hereby formed for the purpose of making a McAdamized or gravel road, in all or in part of either material, from the town of Winchester to Kiddville, under the name and style of the Winchester and Kiddville turnpike road company.

Capital stock. § 2. That the capital stock of said company shall not exceed thirty thousand dollars, which shall be placed under a board of directors, to be appointed in the manner hereinafter directed.

Books to be opened for subscription of stock. § 8. That books for the subscription of stock shall be opened on or before the first day of January, 1853, under the direction of the following named commissioners: at Winchester, Thomas Hart, James H. G. Bush, James Flanagan, John Wills, Burgess Eckton; at Kiddville, Leonard Beall, Thomas Goff, Harrison Thompson, Joseph Risk, David Butler. The commissioners at each place shall procure one or more books, and in each of which they shall enter as follows, viz: We, whose names are hereunto subscribed, promise to pay the board of directors of the Winchester and Kiddville turnpike road company the sum of fifty dollars for each and every share of stock set opposite our names, in such manner and proportion, and at such times as may be determined on by said board, and agreeably to an act of assembly incorporating said road company. Witness our hands this the — day of — in the year —. The said commissioners shall give notice (written or printed,) to be put up in Winchester and Kiddville, and at other public places along the line of said road, at least ten days notice of the times and places at which said books will be open for the subscription of stock in said company; at which times and places some one or more of the commissioners shall attend, and permit all persons of lawful age, bodies corporate and politic, to subscribe for any number of shares of said stock. The books shall be kept open for the purpose aforesaid, by adjournment from place to place, and from time to time, until the whole number of shares shall have been subscribed; of which adjournment, the commissioners shall give such notice as the occasion may require.

Contract to be signed. § 4. That when three hundred shares of said stock shall have been subscribed, the commissioners shall give ten days notice (printed or written,) to be put up in public places in Winchester and Kiddville, and along the line of said road, that the number of shares required for organization has been subscribed, and that a meeting of stockholders will be held at such place as the commissioners shall designate in said notice, for the purpose of organizing a board

When company may organize.

Election of Directors.

1851.

of directors for the construction of said road, by the acceptance of this charter, and the election of five directors, one of whom shall be president, to be designated as such by the stockholders at the time of the election of said directors, and, also, by the election of a treasurer. At said election at least three of the commissioners shall be present, who shall proceed to take the vote, by ballot, of all the stockholders who shall have the right to vote, in person or by proxy in writing, each stockholder having one vote for every share of stock he holds. The said president and directors shall hold their offices for one year from the day of their election, and until others shall be duly elected and qualified.

Term of office.

§ 5. To enable said president and directors to carry out the objects of this charter, when organized as above provided for, it shall be and is hereby declared to be a body politic and corporate, in deed and in law, by the name and style of the president and directors of the Winchester and Kiddville turnpike road company; and, under that name and style, shall have perpetual succession, and all the privileges, immunities, and franchises of a body politic and corporate; and shall be capable of taking and holding the capital stock subscribed as aforesaid, and the increase and profits thereof, and enlarging the same, from time to time, by new subscriptions, in such manner and form as they may think proper, to carry out the intent of this act, and of purchasing and holding to themselves, and their successors in office and assigns; also, of selling, transferring, and conveying in fee simple all such lands, tenements, hereditaments, and estate, real and personal, as may be necessary for the prosecution of their work; of suing and being sued, pleading and being impleaded, defending and being defended, in all courts of law and equity, and in all places whatever; also, to have and use a common seal, and the same to alter or renew at pleasure; and to make such by-laws, not inconsistent with the constitution and laws of this state or those of the United States, as may be necessary for the government of the affairs of said board of directors; and do all and every other act and thing which a turnpike corporation may lawfully do.

Corporate name and power.

§ 6. That said president and directors shall have power to locate said road upon the nearest and most practicable route from Winchester to Kiddville; and wherever the owners of land over which it may pass, shall claim damages, a jury shall be called to assess such damages (if any); and either party feeling themselves aggrieved by their decision, may traverse the finding, by appeal to the circuit court of the county in which the land may lie. The jury shall be summoned by the sheriff or a constable, and sworn by some justice of the peace; and the fees of the sheriff or constable and justice shall be the same as is now at-

Location of road.

How lands may be condemned.

Proceedings therefor.

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lowed them in trials of the right of property, to be paid by the party against whom the cost shall be adjudged. When the owner of the land shall give the directors or president five days notice, in writing, it shall be their duty to have a jury summoned within ten days thereafter, unless for good cause shown, under the penalty of fifty dollars for failure to do so.

Directors to
keep record.

§ 7. That said president and directors shall keep a record of their proceedings, which shall at all times be open to the inspection of each and all the stockholders in said company.

Description of
road.

Stock may be
paid in work.

§ 8. Said road shall not be made more than thirty nor less than ten feet wide, and those who subscribe stock may pay their calls on the same in work or material, under such regulations as the president and directors may adopt.

Certain sec-
tions of charter
of the Frank-
fort, Georgetown,
and Paris
turnpike road,
adopted.

§ 9. That all the provisions from section 6 to section 24, inclusive, of an act, entitled, an act to incorporate the Frankfort, Georgetown, and Paris turnpike road company, approved February 28th, 1835, (except so far as is already provided for in this act, or may come in collision with the provisions of the same,) so far as the same are applicable to the objects and intents hereof, be and the same are hereby adopted and re-enacted as a part of this act.

When 5 miles
completed, toll
gates may be
erected.

§ 10. That when five continuous miles of said road shall have been completed, as required by this act, the president and directors may erect a toll gate thereon, and charge the same tolls as are now charged on the turnpike road from Lexington to Winchester.

Approved December 13, 1851.

CHAPTER 133.

AN ACT to re-establish and re-mark corners of the sectionized lands west of the Tennessee river.

County sur-
veyor may call
on receiver for
papers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That for the purpose of enabling the county surveyors of the counties of Calloway, Marshall, McCracken, Graves, Ballard, Hickman, and Fulton, to re-establish and re-mark the corners of the sectionized lands within their respective counties, it shall be the duty of each of them, on or before the first day of February next, to make, upon the receiver of public moneys for the sale of vacant lands west of the Tennessee river, a requisition for an exact copy of the field notes, including every object noted and survey made by the several surveyors thereof, on file in said office, of all that portion of the sectionized lands not included by the treasury warrant and military surveys, and within their respective counties.

§ 2. Within sixty days from the filing and requisition, as required in the first section of this act, with said receiver.

er, he shall, under a penalty of one hundred dollars, proceed to furnish the required copies; and for every twenty words he shall receive one cent, and for every forty figures one cent, to be paid out of the county levy of each county, respectively, upon the production of the receipt of the surveyor, acknowledging the reception of the copy by him required, and certifying the number of words and figures it contains.

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Receiver bound to furnish necessary papers.

§ 3. In all cases where the surveyor of any county in the land district west of the Tennessee shall be called on to survey any portion of the sectionized lands, and requested to re-establish and re-mark the lines and corners thereof, it shall be the duty of such surveyor, with all reasonable dispatch, to make the required survey, in doing which he shall use all the means within his reach to find the original lines and corners. The original corners, if found standing, he shall re-mark; if found, but not standing, he shall in their places put up others; if not to be found, he shall proceed to ascertain, as near as possible, where any missing corners did stand, and for this purpose he shall hear all the evidence which either party interested shall produce, and at the point or points thus ascertained he shall put up and re-establish the corners; and upon the original number trees, when they can be found, if green, he shall, in large plain letters and figures, mark the proper township, range, and section; when not to be found, or, if found, be dead, he shall place the proper marks upon other convenient trees or durable posts or stones.

Surveyors to make surveys.

Corners to be distinctly marked.

May re-establish and put up new corners.

§ 4. Preparatory to re-marking the townships, ranges, and sections, the ross or dead bark only shall be taken off the trees, and the letters and figures cut into, but not through the green bark.

How chops or hacks to be made.

§ 5. In all cases, before proceeding to establish and re-mark the corners of any land, under the provisions of this act, ten days notice, in writing, shall be given to all persons interested who reside in the county, if known; if not known or not residents of the county where the land lies, then sixty days notice shall be given by advertisement in the nearest newspaper.

Notice to be given to all parties interested.

§ 6. The lands of non-resident owners shall be subject to the payment of a just proportion of the cost of re-establishing corners in which they are interested, whether they attend or not.

Non-residents lands liable to payment of costs

§ 7. When re-establishing lines and corners, under this act, the surveyor shall, in all cases, note the courses and distances of convenient surrounding objects, such as green trees, drains, branches, creeks, and water courses generally.

§ 8. No additional fee shall be charged for re-establishing and re-marking the lines and corners of any survey made under the provisions of this act, but the fees of the surveyors shall be the same as now allowed by law.

No additional fees to be charged by surveyor.

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Surveyor to
keep a record of
proceedings.

Shall furnish a
copy of all sur-
veys made.

Fees to be
charged by sur-
veyor.

Records to be
evidence of
boundaries.

How party in-
jured may be re-
dressed.

Corners estab-
lished at ex-
pense of owner.

Who to issue
warrants.

§ 9. The surveyors shall each provide and keep a well bound book, in which they shall record all the surveys by them made, under the provisions of this act, noting when and for whom the survey was made, a fair plat of the same, and description of the lines and corners re-marked, posts or stones put up, and surrounding objects noted. He shall also furnish the party or parties, for whom any survey is made, with a complete copy of such record, certified under his hand, which shall be delivered to the clerk of the county court of the county where the land lies, and recorded in a well bound book to be by the clerk provided and kept for that purpose.

§ 10. For the certified copy of the record of any survey not exceeding one section of adjoining land, the surveyor shall be entitled to a fee of fifty cents, and for each additional adjoining quarter section, ten cents, and for recording each certificate the clerk shall be entitled to a fee of twenty-five cents.

§ 11. The records of the surveyor and clerk, or either of them, made agreeably to the provisions of this act, shall be conclusive evidence of the boundaries and corners of the lands therein described.

§ 12. Any person or persons aggrieved by the establishment of any line or lines, corner or corners, by any county surveyor, under the provisions of this act, shall have the right, within ten days, of an appeal to the circuit court of the county where the land lies, under the same rules and regulations that govern appeals to the county court from decisions of justices of the peace. The judge may hear and determine the points in controversy, or, at the request of either party, he shall cause a jury to be impannelled to try the facts in the case. If it shall appear from the decision of the court, that the surveyor has wrongfully located any line or corner, he shall be entitled to no fee for the survey so made. But upon the rendition of the judgment of the court, he shall proceed to re-survey the land, and re-mark the corners thereof, in strict conformity to the decision of the court, record the survey so made, and give a certificate thereof as required in section ninth of this act; for which the surveyor and clerk shall have the same fees, and the record the same validity as in cases above provided where no appeal is taken.

§ 13. All posts or stones put up for the purpose of establishing any corners, under the provisions of this act, shall be prepared by or at the expense of the person for whom the survey is made.

§ 14. The county surveyor of any county in the land district aforesaid, the county judge, or any justice of the peace of any county thereof, shall have all necessary power to issue summonses, and, if need be, by attachment, compel the attendance of any witnesses required by either of the

parties interested in the establishment of any lines or corners, under the provisions of this act. The surveyor shall administer all necessary oaths to witnesses, hear the testimony, preserve order, and, if need be, punish contempts, to the same extent and in the same manner as justices of the peace may lawfully do.

§ 15. Any person who shall swear falsely in any examination by the county surveyor, under the provisions of this act, shall be guilty of perjury, and may be punished as in other cases of like offenses.

§ 16. When any person desiring a survey made, under the provisions of this act, shall apply to the county judge of the county in which the land lies, showing any reasonable cause why the county surveyor should not make such survey, or when the county surveyor shall refuse to act, it shall be the duty of the county judge to appoint some competent disinterested person, who, being first duly sworn faithfully to discharge his duties, shall proceed to make the required survey, and who, for that case, shall have the same powers, receive the same fees, and do and perform all duties by this act required of the county surveyor, and from whose acts an appeal may be taken, as provided in section twelfth of this act.

§ 17. For a willful neglect or corrupt discharge of any of the duties herein prescribed, the surveyor shall be subject to indictment by the grand jury, and fined, at the discretion of a jury, not exceeding one hundred dollars.

§ 18. Nothing in this act shall bar the rights of persons laboring under any legal disability.

Approved December 13, 1851.

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Surveyor may administer oath.

Punished for false swearing.

County court may in certain cases appoint a surveyor.

Surveyor subject to indictment.

CHAPTER 135.

AN ACT to amend an act to charter the Louisville and Nashville Railroad Company, approved March 5, 1850.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the act recited in the title of this act, shall be so amended that it shall be lawful for the Louisville and Nashville railroad company to construct the main line of their road to the Mississippi river or the Ohio river below the Tennessee river, or to connect with a railroad from Memphis to the state line of Kentucky, in the direction of Louisville, or with the Mobile and Ohio railroad, through such of the counties of this state as they may elect; and said company shall not be bound, under their charter, to construct their road to the state line of Tennessee, in the direction of Nashville, unless the state of Tennessee shall grant said company an acceptable charter to construct the same to Nashville.

§ 2. That in case the Louisville and Nashville railroad

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company shall elect to construct a railroad from Louisville to a point on the Mississippi river, or to a connection with a railroad from Memphis, Tennessee, or the Mobile and Ohio railroad, within the state of Kentucky, or the Ohio river below the Tennessee river, it shall be lawful for the general council of the city of Louisville to direct that the subscriptions made and authorized to be made to the capital stock of the Louisville and Nashville railroad company, to the amount of one million of dollars, shall be transferred and made to the capital stock of said company under this amendment.

Style of the
corporation may
be changed.

§ 3. That in event of the acceptance of this amendment by the Louisville and Nashville railroad company, that the name and style of said company may be changed to that of the Louisville and south western railroad company.

Powers of the
city council of
Louisville.

§ 4. Before the stock subscribed by the city of Louisville shall be transferred, and made a part of the capital stock of the south western railroad company, as provided for in this act, the general council of the city shall, by ordinance, provide for submitting the question to the qualified voters of the city, and if a majority of votes polled should be cast for the transfer, it shall be made, otherwise it shall not be done.

Approved December 15, 1851.

CHAPTER 136.

AN ACT to authorize the Clarke County Court to subscribe stock in works of Internal Improvement in said county.

WHEREAS, it is represented to this general assembly, that the tax imposed by the Clarke county court to meet its subscription of stock in the Paris and Winchester turnpike road, has exceeded the amount subscribed, and doubts are entertained as to the power of said county court over said surplus. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Clarke county court be and the same is hereby authorized to subscribe stock in other works of internal improvement, in said county, to the amount of said surplus.

Approved December 20, 1851.

CHAPTER 137.

AN ACT for the benefit of Samuel Spencer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the residence of Samuel Spencer be and the same is hereby declared to be in the county of Cumberland.

Approved December 20, 1851.

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AN ACT to take the sense of the people of Owsley county, for the purpose of changing the county seat of said county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be the duty of the following persons, to-wit: Abel Pennington and Isaac Congleton, to meet at Boonville, in Owsley county, on the last Monday in January, 1852, and of the following other persons, to-wit: Joseph Seal and Hiram McGuire, to meet at Proctor, in the same county, on the same day, and at the usual voting place, to superintend, as judges, an election at each place, for the purpose of determining whether the seat of justice of Owsley county shall remain at Booneville, or be removed to Proctor; and the said judges, with a view to determine that matter, shall open a poll book at said places of voting, containing separate columns for and against said towns respectively, as above indicated; and all persons living in said county of Owsley, who are twenty-one years of age, and entitled to vote under existing laws, and who were residents of said county at the passage of this act, shall be entitled to vote in said election, and the voters shall be entitled to vote at either of said voting places. Said judges shall continue to hold said election for two consecutive days; and at the close of said election, they shall cause the votes to be cast up in each column, and that place having a majority of all the votes cast shall be entitled to be the seat of justice of said county; and the county court, or probate court of said county, next after said election, shall proclaim the result of said election, and immediately take the necessary steps, under existing laws, to have the sense of the people, so ascertained, properly executed; and in case they fail or refuse so to do, the circuit court of Owsley county shall and is hereby required to enforce the compliance of said county or probate court in the directions aforesaid; and, until they shall have so complied, the circuit and county courts of said county shall sit and hold their terms in the town of Proctor; and to enable them to do so, the citizens of Proctor shall furnish a house sufficient to hold court in, until the public buildings can be erected. It shall be the duty of the clerk of the county and circuit courts, if it shall appear that the town of Proctor has received a majority in said election, to remove the archives of his office immediately to said town.

§ 2. That Isaac Hacker is hereby appointed to act as sheriff, and O. C. Cole as clerk of the election to be held at Proctor; and Jno. C. Faulner as sheriff, and M. G. Horton as clerk of the election at Boonville; and in the event that either of said judges, clerks, or sheriffs should fail to attend the election, as aforesaid, then the remaining judge, sheriff, or clerk to which he was a party, may appoint one to fill such vacancy.

Judges appointed to hold elections in Owsley county; time of election.

Poll books to be opened.

Who may vote

Election to be held for two days.

Result to be proclaimed by county court, and carried into effect.

Proceedings thereunder.

Officers of said election.

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Further provisions.

§ 3. That in the event that any of said judges or parties, for or against the removal of said county seat, shall refuse to hold said election, as required by this act, then the opposing party shall proceed to open a poll, as herein directed, at the place they may be in favor of, and a majority of the votes cast at said place shall govern, settle, and change the county seat, as if polls had been opened at both places.

If county seat be removed, trustees of Proctor may dispose of public square and buildings.

Citizens of Owsley not to be taxed for public buildings

§ 4. That in case the county seat of Owsley county be removed to the town of Proctor, the trustees of said town shall have power to dispose of the public square, remove the court house, clerk's office, and jail to the town of Proctor, or dispose of them as they may think best; and when disposed of, the proceeds thereof shall be applied to the erection of public buildings, as aforesaid. And should the county seat be removed, then the citizens of said county shall not be taxed for the erection of public buildings; but the citizens of Proctor, or those voting for the removal, shall build the same at their own expense; that is to say, the road and bridge fund is hereby set apart to be held for the purpose of erecting said buildings. And in case the county seat of said county be removed to Proctor, then the county court are hereby directed not to appropriate any of said fund, from and after the passage of this act; and all moneys loaned out, and all that the county court has assumed to pay, shall also be applied to the erection of said public buildings, until they are completed.

Penalty for illegal voting.

§ 5. That any person voting twice, or being guilty of false voting at said election, shall be subject to all the penalties now in force under the laws regulating elections.

Approved December 20, 1851.

CHAPTER 141.

AN ACT to incorporate the town of Marion, in Crittenden county.

Boundaries extended.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the boundaries of the town of Marion, in Crittenden county, are hereby extended so as to make said town one half mile square, the court house being the centre; and the town within said limits shall be and is hereby declared to be the town of Marion; and as such, by that name, shall be capable, in law, of contracting and being contracted with, of suing and being sued, of answering and being answered, in all matters whatsoever, and in all courts and places.

Town incorporated, with corporate powers.

When trustees may be elected.

§ 2. That on the second Monday in March, 1852, and in each year thereafter, the free white male citizens in said town, of the age of twenty-one years and over, who shall have resided therein thirty days next preceding the time of the election, may vote for four persons as trustees for said

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town, and, at the same time and place, vote for chairman of the board of trustees, who shall preside in all meetings of said board, and give the casting vote when necessary to decide a tie in the board of trustees. The chairman shall have power to convene the board when, in his opinion, business may require it, or on the application of any two of the trustees, in writing, requesting him to do so; he shall have power to impose a fine of two dollars upon each absent member, after having been notified to attend, which fines he may remit on satisfactory excuses having been made, but when collected, shall be paid over to the treasurer, to be applied as other revenue. No person shall be eligible to the office of chairman, trustee, or any other office in said town, unless he has resided within its corporate limits six months next preceeding the election. The chairman and trustees shall severally take an oath before some justice of the peace, before entering upon their duties, to support the constitution of the United States and of the state of Kentucky, and that they will perform the duties pertaining to their offices to the best of their ability, according to law. The person receiving the greatest number of votes for the office of chairman, shall be the chairman of the board, and the four persons receiving the greatest number of votes for the office of trustee, shall be the trustees, and the clerk shall duly record and attest the same upon the books of the trustees.

Power of the chairman of the trustees.

Who may be elected trustee.

Trustees to take oath of office.

§ 3. The chairman, trustees, and all officers of the town shall, during their continuance in office, reside and keep their offices in the limits of said town. Three months absence from said town, by any officer thereof, shall vacate his office, the fact being ascertained by a resolution of the board of trustees. If the office of chairman shall be vacated, by absence or any other means, the trustees shall have power to elect another chairman for the remainder of the year; and in case the office of trustee, or any other office of said town, shall be vacated by any means, the same shall be filled by the remaining trustees, until the next annual election.

What shall constitute a vacancy.

Vacancy—how filled.

§ 4. There shall be elected, at the same time and place, for the same length of time, (except as is hereinafter provided,) and in the same manner, by persons qualified to vote for trustees, a clerk, assessor, treasurer, and marshal for said town, who, before entering upon their respective offices, shall take, severally, an oath before some justice of the peace, to support the constitution of the United States and the state of Kentucky, and that they will perform the duties of their respective offices according to law, and to the best of their abilities; and shall each, furthermore, execute bond, with adequate penalties and sufficient securities, payable to the chairman and his successors in office, for the faithful performance of their respective duties, together

Election of other officers.

Who shall take oath of office, and execute bond.

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with such other conditions as the trustees may require, upon which they shall be liable to judgment in the Crittenden circuit court, in favor of the chairman or any person injured by a breach thereof, in like manner that sheriffs are liable. In all suits against the board of trustees, the process served upon the chairman shall be deemed sufficient to authorize the court or justice to hear and determine such case.

Trustees to
appoint judges
of town elec-
tions.

§ 5. The trustees shall, in every year, at least twenty days previous to the annual election, appoint two competent residents of said town judges of the election, who, being first duly sworn before some justice of the peace or judge, shall, in conjunction with the clerk, hold an election as provided by this act. The clerk shall advertise at three of the most public places in said town, (or in a newspaper, should one be printed and published in said town,) at least fifteen days previous to said election, the time and place of holding the same. The board of trustees shall have power and authority to declare what fines shall be imposed upon all persons who shall be guilty of indecent or boisterous conduct, such as disturbs the peace and is against the dignity of the town. They shall have power to declare what fines shall be imposed on persons who shall be guilty of boisterous conduct on the Sabbath, running horses, profane swearing in a clamorous manner, fighting, shooting with guns or pistols, making reports by burning powder, blowing of horns, crying aloud by day or night in a disorderly manner, and all riotous conduct in said town; the fines in such cases, and for such offenses, to be ascertained by a jury, under the direction of the police judge of said town, as in cases of breaches of the peace, in any sum not exceeding twenty dollars for each and every offense, and in default of payment ten days imprisonment, or both.

Trustees may
prescribe pen-
alties for disturb-
ing the town.

Duty of the
clerk.

§ 6. That after the clerk shall have been qualified, it shall be his duty to attend all meetings of the board, to preserve the books, papers, records, and every thing belonging to the office, and to deliver the same to his successor in office, on application being made for the same. He shall keep a regular journal of the proceedings of the board of trustees, with a regular account of the fiscal concerns thereof; he shall record all the acts, resolutions, and orders of the board; he shall take all bonds, agreements between the board and all other persons; he shall copy and sign all resolutions, orders, claims, and allowances, when required to do so by persons having claims against the board, for each of which he shall be entitled to ten cents from the person so requiring the same; and when the assessor's list of taxable property is returned to the board, the clerk shall make out a fair list of the persons liable to pay tax, with the amount of their property and tax listed in alphabetical order, and place the same in the

hands of the marshal on or before the first day of July annually. All persons subject to pay tax may pay the same to the marshal any time after the list is deposited with him, and before the first day of September following; and the marshal is authorized and required to make a discount of five per cent. on all sums so paid, and to certify to the clerk of the board, immediately after the said first day of September, the names of all persons who have paid their taxes, and the amount so paid; and the marshal shall then forthwith proceed to collect all the taxes remaining unpaid on the said first day of September, and, to enable him to do so, he shall have all the powers and authority, in the town of Marion, that sheriffs have for collecting the county levy and state revenue.

§ 7. That the assessor, being first duly sworn, and in other respects complying with the requirements of the board of trustees, agreeably to this act, shall call upon all persons in said town of Marion, who are subject to be taxed, and make out a true list of their taxable property, with the value thereof, which list shall be made upon the oath or affirmation of the party, and administered by the assessor. If any person refuse to give in a list of his or her taxable property, or be absent, the assessor shall make out a list of the same from the best information he can obtain. The assessor's list shall contain all free white male persons over twenty-one years of age, all slaves, with their value, all tavern keepers, grocers, coffee-house keepers, victualers, confectioners, with all other species of property made taxable by the board of trustees, under the provisions of this act. Persons refusing to give in their list of taxable property, or being absent when taken, may, if they feel aggrieved at the valuation made by the assessor, apply to the chairman of the board of trustees, at any time before the first day of July of that year, who may call a meeting of the board at any time before the first day of September following, to hear and determine whether such valuation shall be changed. It shall be the duty of the assessor to make out and return to the board of trustees the list of taxable property required by this act, on or before the fifteenth day of June of each year.

§ 8. That after the treasurer shall have been duly qualified, it shall be his duty to receive and give receipts for all moneys paid him; he shall keep a fair record of the fiscal concerns of the board, and record in order all the appropriations of the board, as certified to him by the clerk, and pay the same according to their order; he shall pay no money without receiving a copy of a resolution or order of the board, signed by the clerk, making such appropriation; he shall file all orders received by him, for settlement with the board; his books shall at all times be open to the inspection of any citizen of said town, or persons

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Marshal to collect the taxes

Duties of assessor.

Penalty for failing to list property.

Treasurer's duties.

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having claims against the board, with reasonable notice; he shall annually, on or before the third Monday in February, and whenever required by resolution of the board so to do, report to the board of trustees the true condition of the treasury, and shall at all times be ready for a settlement with said board; he shall be entitled to at least two and a half per cent. for all moneys received and paid out by him, under the provisions of this act. The treasurer and all other officers of said town shall be liable to be removed for cause, a majority of the trustees concurring therein.

Marshal's term
of office; his
powers and ju-
risdiction.

§ 9. That the marshal of the town of Marion shall hold his office two years, and, after he shall have been duly qualified, shall possess the same powers, have the same jurisdiction, exercise the same authority, perform the same duties, be entitled to the same fees, and be subject to the same penalties and liabilities as a constable of the county of Crittenden; and, in addition thereto, he shall be an especial peace officer of the town of Marion, with authority to command the power of the town to suppress riots, fighting, or any manner of disturbance of the peace; he shall be required to execute all process directed to him by the police judge of said town of Marion; he shall collect all taxes which may be levied by order of the board of trustees, in the manner directed by this act, for which he shall be entitled to two and a half per cent. on all sums collected prior to the first of September, and five per cent. on all sums collected thereafter; and shall pay over to the treasurer, on or before the first day of October of each year, all moneys at that time collected by him for taxes in said town; he shall, on or before the third Monday in April of each year, render to the clerk of said town a true list of taxes and fines collected by him, and shall pay the same to the treasurer, taking his receipt therefor, and shall, at the same time, return to said clerk a list of all persons who have failed to pay their taxes, and the amount due from each person so failing; and he shall obey and put in execution all orders, resolutions, and by-laws of said board of trustees.

Marshal may
sell real estate
for taxes.

Subject to re-
demption.

§ 10. That the real estate, as well as personal property of residents and non-residents, may be sold by the town marshal for taxes, the real estate being subject to redemption in one year, with twenty per cent. per annum on the debt, with costs thereon; but no real property shall be sold for taxes by the marshal unless so directed by resolution of the board of trustees; nor then, until four weeks notice of the time and place of sale, which shall be at the court house door and on court day, shall have been given by notice in three public places in said town, in case of residents' lands, and notice on the court house door, and also in some public paper nearest the town of Marion, in case

of non-residents' lands; and it shall be the duty of the marshal, who is hereby authorized to make a deed and deliver the same to the purchaser at the expiration of one year from the day of sale: *Provided*, that the rights of infants and *femes covert* to redeem, as aforesaid, shall be saved for one year after their respective disabilities are removed.

§ 11. The board of trustees shall be authorized to make, annually, a reasonable appropriation for the payment of the officers of the town; they shall have power and authority to receive real and personal estate, by purchase, devise, bequest, or donation, for the purpose of establishing school houses and academies; and, also, for a burial place or cemetery, for engine houses, market house, watch house, and every other purpose legitimately connected with the wants, necessities, or conveniences of said town, and shall have power to regulate, control, lease, and dispose of the same; they shall have power to appoint watchmen, and all other officers they may deem necessary for an efficient and proper police of said town; they shall have power to punish free persons of color and slaves hiring themselves or their own time, for disorderly or improper conduct, by lashes not to exceed twenty, or by removing such persons from the town; they shall have power to declare what are nuisances, and to remove the same.

§ 12. The board of trustees shall have power and authority to assess, levy, and collect a tax on all real and personal property within the limits of said town of Marion, not to exceed ten cents on each one hundred dollars worth per annum. They shall have power and authority to levy and collect a poll tax, not to exceed one dollar and fifty cents in any year, on all free white males residing in said town, over the age of twenty-one years; they shall also have power to license or refuse to license coffee and exchange houses in said town; but nothing herein shall be construed to allow them the power to grant such houses the right to sell ardent spirits to be drank in or about such houses; and they may tax, for such license, not more than fifty dollars. They shall have power to tax all kinds of domestic animals within said town; they may tax all theatrical performances, shows, and exhibitions of all kinds, in any sum not exceeding ten dollars for each exhibition. They shall have power to pass by-laws and ordinances for the regulation of said town, and to annex and enforce adequate penalties for violations thereof; they shall have power to pass by-laws, ordinances, and regulations for the enforcement of the powers granted by this act, and to annex and enforce adequate penalties for violations of the same. The clerk shall issue license for theatrical performances, shows, and exhibitions, upon application for the same, the applicant filing with him a receipt, signed by the treasurer

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Trustees may compensate the town officers.

They may hold real estate, &c.

May levy taxes.

License of coffee houses, &c.

May tax shows, &c.

May enact by-laws, &c.

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May tax auc-
tioneers.May fine for
drunkenness &cMay make im-
provements in
said town.

or marshal, for the sum levied by the board, and that such sum has been paid. They shall have power and authority to tax all auctioneers, in a sum not exceeding two and a half per cent. on all goods, wares, and merchandise sold to bidders within said town, except property sold by citizens of their own manufacture, sold by order of court, or by executors, administrators, or guardians. They shall have a lien on real and personal estate within said town, until the taxes are paid; all such property shall be liable to be sold, or so much thereof as will pay such tax and cost of sale, according to this act and the order of the board of trustees. The board of trustees may lay and levy their tax for the current year, as soon after the first day of April, annually, as may be convenient. They shall have power and authority to declare what fines and penalties shall be imposed on persons guilty of drunkenness, or any grossly improper and indecent behavior, in any sum not exceeding ten dollars for every such offense. They shall have power and authority to clear the streets, alleys, and pass-ways from all obstructions, and remove nuisances by imposing fines and penalties for such offenses in said town. They shall have power to protect and preserve free from incumbrance all the public grounds and improvements belonging to the public in said town. They shall have power to receive conveyances from owners of ground within said town, for the purpose of extending, opening, and widening streets and alleys within said town. They shall have power and authority to cause the streets, alleys, and sidewalks in said town to be paved, turnpiked, McAdamized, or gravelled, and the sidewalks curbed, but not at the cost and expense of the owners of the ground fronting such street, alley, or sidewalk, unless a majority of three-fourths of the owners of the ground upon any street, alley, or sidewalk shall petition the board of trustees to pave, grade, turnpike, McAdamize, or gravel such alley or street; or when the owners of three-fourths of the ground fronting upon such street or alley shall, in like manner, petition, the board of trustees shall, by resolution, order such work to be done in the way and manner they may direct; they shall cause the paving of any street or alley to be finished which the owner or owners of lots on such streets or alleys shall have finished one equal half of the street or alley adjoining their grounds, and opposite thereto. They shall have power to cause the owners of private alleys, stables, lots, and pens, to have them cleaned when they shall have become filthy, and considered as a nuisance by the board, by imposing fines and penalties not exceeding ten dollars upon the owners and occupiers of such alleys, stables, &c., for failing to comply with the order of the board to clean the same. They shall have power to compel persons moving poor or indigent persons in said town, likely to become

a charge thereto, to give security that said indigent person shall not become a charge to said town, and in default of such security, to impose fines and penalties therefor. The trustees shall hold a lien upon such ground as fronts the pavement, sidewalk, turnpiked, McAdamized, or gravelled street, ordered to be made by them, for the payment of such improvements; they shall have power to collect the same by the sale of the ground, or so much thereof as will be sufficient to satisfy the claim, with costs, subject to be redeemed in three years, with interest of twenty per cent. annually, to the purchaser, or his assigns, from the original owner, or his assigns, who did not petition for such improvement: *Provided*, that infants shall have two years after their majority, on like terms, to redeem their grounds.

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§ 13. That if any person or persons, in the town of Marion, shall presume to keep a tavern, coffee or exchange house, or exhibit any show whatever, without having first obtained a license, as directed by this act, he, she, or they, so offending, shall be subject to pay a fine of fifty dollars for every such offense, to be recovered by an action of debt before the police judge of said town.

Penalties for keeping tavern, &c. without license.

§ 14. That all officers of the town of Marion, (except as is herein otherwise provided,) shall enter upon the duties of their offices, respectively, on the first day of April following their election, and shall hold the same for the term of one year, and until their successors are elected and duly qualified.

Term of office of town officers.

§ 15. That upon the organization and qualification of the first board of trustees elected under the provisions of this act, the now existing trustees for the town of Marion shall deliver to the trustees under this act, all the books, papers, and all other things pertaining to said trustees, and belonging to the town, who shall have power to confirm all proper acts of their predecessors, which may require it.

Former trustees to deliver up all books, papers, &c.

§ 16. That for the purpose of recovering all fines and penalties or forfeitures herein designated, or that shall accrue under any ordinance or by-law that may be passed by the board of trustees, the board is hereby authorized to sue for the same before the police judge of the town of Marion, who is hereby invested with jurisdiction to hear and determine the same, subject to an appeal to the proper court. The marshal shall have power to serve all warrants, and to collect all debts on executions for said fines, penalties, and forfeitures; the suits to be brought in the name of the chairman of the board of trustees of the town of Marion.

Trustees may sue for penalties

§ 17. There shall be elected at the same time and place, in the same manner, and by the persons qualified to vote for trustees of said town, a judicial officer, to be styled the police judge of the town of Marion, who shall hold his office for the term of four years from the first day of April following his election, and until his successor is elected and quali-

Police judge to be elected; his duties, jurisdiction and powers

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fied, and who shall be commissioned by the governor, as such, for said term of time; and who, before he enters upon the duties of his office, shall take an oath before some justice of the peace or judge to discharge the duties of his office faithfully and impartially, to the best of his ability, without favor, affection, or partiality, together with such other oaths as public officers are usually required to take. That said police judge shall have the same original jurisdiction, criminally, at common law, and in chancery, which justices of the peace of this commonwealth now have or may hereafter have within this commonwealth, and within their respective counties, and shall be governed by the same rules and regulations, be entitled to receive the same fees for his services, (except as herein otherwise provided;) he may (alone) sit as a court of inquiry in criminal cases, in which he shall have the same jurisdiction now given by law to two justices of the peace, and shall proceed in like manner as two justices are required to proceed, in criminal cases; he shall have jurisdiction of all offenses under the ordinances and by-laws of said town, and he shall have power to enter judgment and award executions accordingly; he shall have full power and authority to grant injunctions, restraining orders, attachments in chancery, and writs of *habeas corpus*, under the same rules and regulations prescribed by the several acts authorizing certain justices of the county courts to grant the same writs. It shall be the duty of said police judge to keep a record of his proceedings, a copy of which shall be evidence, and shall have the same effect as records of justices of the peace; he shall have power to issue summons for witnesses to give evidence in cases pending before him; to compel their appearance, he shall have power to issue compulsory process. He shall have power to punish for contempt, by fine and imprisonment: *Provided*, that in no case shall such fine exceed five dollars, nor the imprisonment six hours. He shall have power to order the marshal or a constable to summon a jury in any case cognizable before him, when a jury would be required before a court or justice of the peace under like circumstances. It shall be lawful for said judge to take depositions, and certify the same, when they are to be read as evidence in any cause pending in this commonwealth, where a justice of the peace has authority to take depositions. He shall be entitled to the following fees, viz: a fee of fifty cents upon every application for an injunction, restraining order, attachment in chancery, or writ of *habeas corpus*, to be paid in advance or collected as other fees; and in every case in which any of said writs, so applied for, shall be granted, the fee therefor shall be taxed in the bill of costs against the unsuccessful party; for a peace warrant, or warrant for riot, rout, or unlawful assembly, or breach of the peace, fifty cents; for issuing a warrant for

His fees.

the violation of the by-laws or ordinances of said town, or in any case where the trustees are plaintiffs, twenty-five cents; for swearing a jury, and presiding on the trial in any case except forcible entry and detainer, fifty cents; for taking recognizances to keep the peace, upon the application of any person, fifty cents, to be paid by the applicant; for oath administered to any person *ex parte*, together with a certificate thereof, twenty-five cents; all other fees of said police judge shall be the same as those allowed to justices of the peace for like services, and to be collected in the same way. That upon all judgments rendered by said judge, each party shall have the same right to an appeal from said judgment as they now have, and in the same manner that appeals are taken from judgments of justices of the peace in like cases.

§ 18. That in case of a failure to hold the annual election for trustees on the day specified in this act, the corporation shall not on that account be dissolved; the trustees and other officers, for the time being, shall continue in office until their successors shall be duly elected. It shall be lawful, when, from any cause, the election may not be held on the day specified, to hold an election of the chairman, trustees, and other officers of said town, at any time within sixty days after the day for an annual election; and the officers, so elected, shall hold their offices until the next annual election. The first election of officers under this act shall be conducted by some justice of the peace for the county of Crittenden, together with the sheriff, and some suitable person to be selected by them as clerk, shall constitute the judges of the election; and in case of the failure of the justice and sheriff to attend, or either, one discreet freeholder of said town shall take the place of each, and shall take charge of and conduct said election, together with some suitable person to be by them selected as clerk. The governor shall commission the person as police judge, who shall be returned to him by the judges of the election and their clerk, under a certificate of some justice of the peace that said persons acted as judge and the clerk of the election at which said judge was voted for, as having received the greatest number of votes for said office.

And whereas, it is represented to the general assembly of the commonwealth of Kentucky, that sales of lots in the said town of Marion have been made privately by John S. Gilliam, the proprietor of said town, and not publicly by the trustees, as required by law, and that the purchase money for said lots having been paid to the said John S. Gilliam, the trustees of said town have conveyed the lots so sold to the purchasers, by deed, and that a portion of the said lots so sold have not yet been conveyed to the purchasers. Therefore, *Be it further enacted*, That the said conveyances of lots which have been heretofore made, as

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Corporation not dissolved for failure to hold the annual election.

How first election to be conducted.

Governor shall commission police judge.

Provisions respecting sales of lots heretofore made.

Conveyances heretofore made legalized.

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aforesaid, are hereby legalized, and that the title to said lots, so sold and conveyed, shall hereafter be and remain in those to whom such conveyances have been made, in as full and ample a manner as if said lots had been legally sold and conveyed by the trustees of said town.

Trustees in future to convey the title in lots to purchasers.

§ 19. That the trustees of said town, who may hereafter be elected in pursuance of the provisions of this act, may convey, by deed, to those who may have purchased said lots, as aforesaid, such of those lots as have not been heretofore conveyed to them; and such conveyances, so made, shall be as effectual to pass the title to the lots they may so convey, as if the sale thereof had been duly made in conformity to law: *Provided, however,* That nothing in this section shall be construed to authorize a conveyance to be made until the purchaser shall produce to said trustees a receipt from the said John S. Gilliam for the purchase money. That all acts and parts of acts coming within the purview of this act, and not in conformity herewith, be and the same are hereby repealed.

§ 20. That nothing in this act shall be so construed as to diminish the revenue of the state, arising from any source.

Approved December 20, 1851.

CHAPTER 140.

AN ACT extending the Mechanics' lien law to certain counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the provisions of an act, entitled, an act for the benefit of the mechanics of the city of Louisville, approved December 22, 1831, and the amendment thereto, approved February 22, 1834, shall apply to the counties of Madison, Woodford, Crittenden, Union, Floyd, Johnson, Trigg, Garrard, Boone, Gallatin, Estill, Taylor, Fleming, and Greenup; and that all suits authorized by said acts, so far as said counties are concerned, shall be brought in the circuit courts of said counties.

Approved December 20, 1851.

CHAPTER 142.

AN ACT to change the line between the Tolesburg precinct and James McCormic's precinct, in Lewis county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the line between the Tolesburg precinct and James McCormic's precinct, in Lewis county, be so changed as to run from Lash Ishum's to Henry Morrison's, on the north fork of Licking river, so as to include Nathaniel Kirk, James A. Keith, and Abraham Plummer and sons

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in the Tolesburg precinct, and Henry Morrison in McCormic's precinct.

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Approved December 20, 1851.

CHAPTER 144.

AN ACT authorizing the Presiding Judge of Kenton county to hold quarterly terms in Covington.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the presiding judge of the Kenton county court, in addition to the quarterly terms of said court held at Independence, shall hold four courts in the city of Covington, for the trial of causes where the defendant or defendants reside in said city; and that he shall hold said courts on the fourth Monday in February, May, August, and November, in each year, and continue so long as the business may require it. Said presiding judge may keep his records in the city of Covington, and shall have the same jurisdiction in said city that justices of the peace have.

Approved December 20, 1851.

CHAPTER 145.

AN ACT changing the lines of Districts in Lewis and Madison counties.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the line of the Concord district, in Lewis county, be so changed as to include William B. Secrest in said district.

§ 2. That the boundary of magistrates' and constable's district No. 6, in Madison county, be so changed as to include the residence of Chiswell D. Gooch; and that the Richmond, or first district, in said county, be so changed as to include Volney Doty and James Shaw in said district.

Approved December 20, 1851.

CHAPTER 146.

AN ACT for the benefit of the Sheriff of Jessamine county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the settlement made by commissioners appointed by the county court of Jessamine county, at their October term, 1851, with the sheriff of said county, and filed in said court, be and the same is hereby legalized and made valid; and it shall be the duty of said county court to order said settlement to record, and the clerk shall certify the delinquent list filed in said settlement, and the auditor and said county court shall account and credit the sheriff with said list.

Approved December 20, 1851.

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CHAPTER 147.

AN AOT to amend the charter of the town of Clayvillage, in Shelby county.

Trustees appointed.

When election held.

Who may vote for trustees.

Trustees may enact by-laws, &c.

May levy tax.

Prosecutions for breach of town laws.

Tax for 1852.

By-laws to be published.

May tax groceries, &c.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That John McConnell, R. H. Smith, T. C. Guthrie, Lewis Jones, and John Peters, be and they are hereby appointed trustees for the town of Clayvillage, in Shelby county, and shall continue in office until the first Monday in June, 1852; and at the expiration of their term, it shall be lawful for the citizens of said town to elect five trustees, the trustees above named giving ten days notice of the time and place of such election of their successors, who shall remain in office one year after their election.

§ 2. Those who own real estate in said town, being free white males over twenty-one years of age, shall be qualified voters in the election of trustees.

§ 3. The said trustees are hereby authorized to make all such by-laws for the better regulation of the morals, and preservation of the peace of said town, and for the improvement of the streets and alleys thereof, as to them shall seem proper: *Provided*, the same shall not contravene any law of this state or the United States.

§ 4. Said trustees shall have the power to levy a town tax, not exceeding twenty cents on each one hundred dollars worth of taxable property, and one dollar on each tithable, in said town, for the purpose of improving the streets and alleys, and such other objects of general utility to the town as they may think proper; and may appoint a collector, who, after giving bond, shall have full power and authority to collect the said tax, as sheriffs are authorized to collect the revenue tax and county levies.

§ 5. For any breach of the by-laws of said town, the trustees may institute prosecutions by warrant, in the name of the commonwealth, for the use of said trustees, which warrant shall be tried as soon as practicable, and shall not be deferred to the regular quarterly term of the justices' court; and all fines so collected shall be paid to the treasurer of said town for the benefit thereof.

§ 6. The said trustees shall lay and collect a tax on the property of said town, for the year ending August, 1852.

§ 7. Said trustees shall cause to be posted in three conspicuous places of said town, the by-laws and ordinances enacted by them.

§ 8. They shall have full power to impose a tax of not less than five nor more than twenty-five dollars upon each and every grocery, liquor shop, or establishment that keeps and vends wine, brandy, whisky, or any other liquor, within the limits of said town.

Approved December 20, 1851.

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AN ACT authorizing the County Court of Wayne to sell the old jail and stray pen lots in Monticello.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the county court of Wayne, a majority of all the justices of the peace in said county being present and concurring therein, to make an order directing the sale of all that part of the public ground, in the town of Monticello, on which the old jail and stray pen are erected, and also the buildings thereon, after having the same valued by three disinterested persons appointed commissioners for that purpose, who shall make report to said court as soon as practicable after said valuation.

County court may sell.

§ 2. That after said valuation has been made, the county shall appoint a commissioner to execute the order of sale: *Provided*, that said commissioner, in making said sale, shall not sell said lots and buildings thereon, unless they shall bring the amount valued by said commissioner; and it shall be the duty of the commissioner appointed to make said sale, to take from the purchaser or purchasers bond with good security, payable to the county court of Wayne, at such time as said court may direct, with interest from the day of sale, for the purchase money, which bond shall have the force and effect of replevin bonds.

Commissioners to make sale.

Purchaser to execute bond.

§ 3. That upon the payment of the purchase money, the court shall direct said commissioner to execute to the purchaser or purchasers, for and on behalf of said court, a deed or deeds, conveying to him, her, or them the fee simple title to said lots.

Deed to be made

§ 4. That the proceeds of the sale of said lots of ground shall be applied to the erection of another jail in said county.

Application of proceeds.

Approved December 20, 1851.

CHAPTER 149.

AN ACT to incorporate the Ohio River, Bedford, and Campbellsburg Plank Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company shall be and the same is hereby incorporated, for the purpose of constructing a plank or turnpike road from the Ohio river, at a point opposite Madison, Indiana, by the way of Bedford, in Trimble county, to Campbellsburg, in Henry county, in the direction of Newcastle, in said Henry county, under the name and style of the president, directors, and company of the Milton and Campbellsburg plank road company. Said company, when organized as hereafter specified, shall be and they are hereby declared a body politic and corporate,

The commencement and terminus of road.

Style of corporation.

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in act and in law, by the name, style, and title of the president, directors, and company of the Milton and Campbellsburg plank road company; and, by said name, the subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding the capital stock of said company, with the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper, in carrying out the designs of said company: *Provided*, said stock does not exceed one hundred thousand dollars.

§ 2. That the capital stock of said company shall be sixty-five thousand dollars, divided into shares of fifty dollars each.

Opening of
books; character
of obligation.

§ 3. That the books for the subscription of stock in said company shall be opened on the second Monday in January, 1852, in Campbellsburg, Bedford, and Milton; in Campbellsburg, under the direction of James Goslee, Chilton Scott, and James Campbell; at Bedford, William Campbell, William G. Pierce, and Fielding Adams; in Milton, Hayden Fisher, James Conway, Abram Wilson, and Samuel Morris. The commissioners named at each of the above places shall procure one or more books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do promise to pay the president, directors, and company of the Milton and Campbellsburg plank road company, the sum of fifty dollars for each share of stock in said company set opposite our names, in such manner and proportions, and at such times as shall be determined by the president and directors of said company, and agreeably to an act of assembly of the commonwealth of Kentucky, incorporating said company. Witness our hands this — day of —, in the year —." The said commissioners shall give one month's notice of the time and place at which books shall be opened to procure subscriptions of stock in said company, which notice shall be in writing, at some public place in the towns above named, and in one of the Madison, Indiana, papers, and the books shall remain open until all the stock be taken: *Provided*, the president and directors of said company shall not have the power to call in more of the stock than ten dollars on each share, in any sixty days, after the first call, being preceded by advertisement of at least one month in some paper in the city of Madison, Indiana, and in writing at some public place in Bedford, Milton, and Campbellsburg.

Notice of time
and place.

When company
to be organized.

§ 4. That whenever two hundred and fifty shares of said stock shall have been taken, the said commissioners shall give thirty days notice, as aforesaid, that the number of shares required by the act of incorporation to organize the company, have been subscribed, and that an election shall be held at some suitable place in Bedford to choose, by a

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majority of the votes of the subscribers, by ballot, to be delivered in person or by proxy in writing, five directors, and such other officers as they may think necessary to conduct the business of said company, for one year and until their successors are elected; each individual, city, or corporation taking stock being entitled to one vote for every share said person, city, or corporation may have in said company; and the five persons receiving the largest vote shall be the directors of the company; and the election for directors in said company, after the first election, shall ever after be held at Bedford on the first Monday in May, commencing in 1858.

§ 5. That the said directors, so elected, shall elect one of their body as president of said board; and said board, when organized, shall have the power to appoint a treasurer, and all such officers, engineers, agents, and servants, that they may think necessary for the construction and attending to said road, and pay them such salary or make them such allowance, from time to time, as they may deem right and proper, and the same to dismiss and re-appoint at their discretion and pleasure.

Powers board
of Directors.

§ 6. That so soon as said directors shall be elected and organized, they shall proceed to survey the line of said road, on such ground as they think best for the interest of the stockholders, and locate the same so as not to exceed two and a half degrees elevation, if practicable, and in no case to be more than three and a half degrees, if it can be avoided: *Provided*, that before any permanent location be made, such company shall, if practicable, obtain releases for the right of way of persons owning the lands through which said road may pass; as also to the use of timber, stone, and gravel, for the construction and repairs of said road, which release may be in the following words, which shall be binding in law and equity: "I (or we) hereby release to the Milton and Campbellsburg plank road company the right of way through any lands I own in Trimble or Henry county, Kentucky, through which the company may construct a plank or turnpike road, giving to them all the timber, stone, and gravel that may come off or out of said road, forty feet wide, and allowing them to take timber, stone, or gravel off of my land for the construction of the same elsewhere, at a reasonable price;" leaving out or adding to the same any words which will make the contract perfect between the parties.

Survey of route.

How materials
to be procured.

§ 7. That so soon as any gate or gates shall be erected on said road, it shall and may be lawful for the president and directors to appoint such and so many toll-gatherers as they may think proper, to collect of and receive from all and every person or persons using said road, the tolls and rates that may, from time to time, be established by the board of directors: *Provided*, the net profits do not ex-

Toll-gatherers
—rates of toll.

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ceed 6 per cent. on the capital invested in said road, after reserving sufficient to repair and re-construct said road. The president and directors shall cause printed lists of the rates of tolls which they may lawfully demand, to be affixed on or near the gate or gates across said road; and the legislature reserves the right to reduce the tolls so as to keep the net profit to six per cent.

Bond of gate-keeper.

§ 8. That the president and directors shall take bonds, with good security, from the gate keepers and treasurer, and other persons as they may deem necessary, employed by them, for the faithful discharge of their duties to them respectively assigned; which bonds they may cause to be renewed whenever they may deem it necessary; and they shall be payable to the president, directors, and company, as aforesaid: *Provided*, the said president and directors, before they enter upon the performance of their duties, take an oath before some justice of the peace, that they will faithfully discharge the duties of president or directors (as the case may be,) without favor or affection, and to the best of their judgment.

Road let out by sections.

§ 9. That so soon as said road shall be located, the directors may let the same out, by sections, for construction, or make private contracts for the construction of the same, at the lowest prices, and with the best contractors, beginning at the foot of the Ohio river hill, or at the river, at their discretion, and running out to the terminus of the road, as they may find means to construct the same, and may make said road a McAdamized turnpike or plank road, or part of both, as the ground may require; and may, also, make private contracts for constructing said road for stock in the same, or part stock, as may be agreed on.

Width of road.

§ 10. That the whole width of said road shall not be less than forty feet, and the graded part thereof not less than twenty-five feet in width, when the ground will admit of it, and the McAdamized part of it shall be covered with good pounded rock, not less than nine inches thick, and not less than ten nor more than fifteen feet wide, and may be placed on one side of the grade, as the directors may determine.

Branch roads.

§ 11. That said company shall have the privilege of making branch roads to said turnpike or plank road, on either side thereof, and to any distance they may think proper, not interfering with the rights of other companies or individuals; and said company shall have the privilege of using, for the construction of the road, or to repair the same, any timber, stone, or gravel, or other material found on or in the road, for forty feet wide, and shall use other timber, stone, or gravel for the construction of said road, or repairs thereon, within half a mile of the same, by paying a reasonable price therefor.

§ 12. That in all cases when any person claims damages for the roads running through their lands, or for the timber, stone, or gravel taken for the use of the road, and the directors and owners of such land agree as to the amount, it may be left to three disinterested persons, one to be chosen by the company, one by the owner or owners of the land, and the other to be chosen by the two so chosen by the parties, whose award shall be binding on the parties: *Provided, always,* that the persons so chosen shall be freeholders acting under oath, and, in making said valuation, shall take into consideration the advantages or disadvantages arising to the proprietors of such land on account of said road.

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Damages.

§ 13. That said company shall have the right of erecting a gate on said road at the distance of two miles from the river, charging at the same for half a gate from there to the river; and shall set a gate at such points as they think proper, charging in proportion as one gate is to every five miles of travel on said road, and shall charge such reasonable rates of toll, from time to time, as is common on such roads in this and the adjoining states, and have power to collect such toll thus charged as other roads in the state, and collect the same.

Location of gates.

§ 14. That the directors of said company may, at any time after the second Monday in January, 1852, and at any place in this state or out of it, open books for the taking of stock in said company, and may receive the subscription of stock from individuals, corporations, towns, or cities, and may elect a director or directors to represent the same either in or out of the state, the same being amenable, in all respects, to the laws of this state.

Books may be opened out of the state

§ 15. That the stock of said company shall be transferable on the books of the company, and not elsewhere, but shall, in all cases, be bound for dues or the indebtedness of those owning the same, who are indebted to said company.

How stock is transferable.

§ 16. That said company may hold real estate sufficient for erecting their toll houses, with a garden or small farm attached, and for any other purpose connected with their business, together with all such real estate as shall be donated to them, or which may be taken of necessity for the payment of debts or settlement of claims.

What amount real estate may be held.

§ 17. That the directors of said company shall have power to sell their own bonds, to aid them in constructing said road, at such price as the parties may agree upon, which bonds may bear seven per cent. interest per annum; and the principal and interest may be made payable in the city of New York or within the state of Kentucky, as may be agreed upon by the parties; or the said company may borrow money, and pay in their own bonds at par, bearing ten per cent. interest or less per annum.

Directors' power to sell bonds.

§ 18. That if said company shall procure the bonds or

1851.

Work paid for
by bonds.

notes of any individual, corporation, town, or city, in payment of their stock, they may put said road, or any part thereof, under contract, to be paid for in said bonds or notes, or they may sell said bonds or notes for such prices as may be agreed upon by the parties.

§ 19. That it shall and may be lawful for the president and directors, by and with their superintendents, engineers, artists, and workmen, with their tools and instruments of every description, both for the preparing materials and for the conveyance of the same, together with the beasts necessary to effect such conveyance, to enter upon the lands in, and contiguous, and near to which the route and track of said intended road shall pass, having given notice of the intention to the owners or occupiers thereof, or their agents, and making amends for any damage that may be done thereon, the amount thereof, if they cannot otherwise agree upon, to be ascertained as provided for in the twelfth section of this act.

May hold and
dispose of real
estate, sue and
be sued.

§ 20. That this company shall have the power not only to hold real estate, but also of selling, transferring, and conveying in fee simple, all such lands, tenements, and hereditaments, and estate, real and personal, as shall be necessary in the prosecution of their work; of suing and being sued, plead and being impleaded, answer and being answered, defending and being defended, in all courts of record or any other place whatsoever, and also to make, have, and use a common seal, and the same to break, alter, and renew at pleasure; to make all such by-laws and regulations, not inconsistent with the laws and constitution of this commonwealth or of the United States, as shall be necessary, and to do all and every matter and thing which a body politic or corporation may lawfully do: *Provided*, that they shall not issue bank notes nor deal in bills of exchange.

Vacancies—
how filled.

§ 21. That in all cases where vacancies occur in the directors of said road, the other directors may fill such vacancy, to serve as long as the one had to serve whose place is filled.

Record of pro-
ceedings to be
kept, &c.

§ 22. That the president and directors shall keep a fair and just account of all moneys which shall be procured by them from the subscribers of the stock of said company; also, of all moneys expended by them in the prosecution of said work; and all costs, charges, and expenses of said road shall be paid and discharged, and the aggregate amount, when ascertained, shall be entered on the books of the treasurer. The president and directors shall, at the end of every six months, after the said road shall be completed, make a dividend of the clear profits, and pay the same to the stockholders. The dividends shall be declared on the first day of April and the first day of October of each year.

§ 23. That so much of an act, entitled, an act to incor-

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porate the Paris, Winchester, and Kentucky river turnpike road company, and the North Middletown turnpike road company, approved February 25th, 1848, as is embraced in section 10-12, so far as exemption from toll is concerned, and 16, be and the same is hereby re-enacted and adopted as a part of this act, except so far as the same are inconsistent with the provisions hereof.

§ 24. And to more fully explain this act, the president and directors shall have full power to permit any stockholder to work out the stock in said road that he may have subscribed, or any part thereof; *Provided*, he does it at as low a rate as any one else is willing to do it for.

Approved December 20, 1861.

1861.
To what char-
ter this refers.

Individuals
may work out
subscription.

CHAPTER 150.

AN ACT permitting the sale of real estate at the door of the City Hall in the city of Covington.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That when the sheriff or other officer of Kenton county shall levy upon lands lying in the city of Covington, or within two miles thereof, by virtue of any execution in his hands, he may sell the same at the door of the city hall, in the city of Covington, instead of at the court house, as now provided by law.

§ 2. Such sheriff or other officer shall only make such sales on the first Saturday in any month in the year, instead of on the first day of a circuit or county court.

§ 3. Such sheriff or other officer shall not make such sale until he shall have advertised the same, and done all other things now required by law to be done in such cases, and the said sale shall be subject to all and singular the conditions and restrictions now provided by law.

Approved December 20, 1861.

Time of sale.

Notice.

CHAPTER 151.

AN ACT to incorporate the Mountsterling, Kiddville, Red River Iron Works, and Irvine Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company is hereby formed for the purpose of making a McAdamized, plank, or gravel road, in all or in part of either material, and omitting either where the ground may not require it, from the town of Mountsterling, by way of Kiddville and Red River Iron Works, to the town of Irvine, under the name and style of the Mountsterling, Kiddville, Red River Iron Works, and Irvine turnpike road company.

Company cre-
ated.

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Capital stock.

§ 2. That the capital stock of said company shall not exceed one hundred thousand dollars, which shall be placed under a board of managers, to be appointed as hereinafter named.

Books to be
opened for sub-
scriptions of
stock.

Commissioners.

§ 3. That books for the subscription of stock shall be opened on or before the first day of March next, under the direction of the following named commissioners: in Mountsterling, B. J. Peters, James Bean, Thomas C. Barnes, and Nelson Prewitt; in Kiddville, John Goff, Leonard Beall, James Grigsby, and Peyton Adams; at Red River Iron Works, Josiah A. Jackson, John Kimbrill, A. Lawell, and W. G. Jackson; and in Irvine, William J. Clarke, A. A. Curtis, S. M. Barnes, and Elijah Herndon. The commissioners at each place shall procure one or more books, and in each of which they shall enter as follows, viz: We, whose names are hereunto subscribed, promise to pay to the board of managers of the Mountsterling, Kiddville, Red River Iron Works, and Irvine turnpike road company the sum of fifty dollars for each and every share of stock set opposite our names, in such manner and proportion, and at such times as may be determined on by said board, and agreeably to an act of assembly incorporating said road company. Witness our hands this — day of —, in the year —.

Contract to
be signed.

Notice of open-
ing books to be
given.

Certain coun-
ties may sub-
scribe stock.

The commissioners shall give written or printed notice, to be put up in public places in Mountsterling, Kiddville, Red River Iron Works, and Irvine, and at other public places along the line of said road, at least ten days previous to the times and places at which books will be opened for the subscription of stock in said company; at which time and places one or more of the commissioners shall attend, and permit the Montgomery, Clarke, and Estill county court, by their treasurer or clerk, all persons of lawful age, bodies corporate and politic, to subscribe for any number of shares of stock. The books shall be kept open for the purpose aforesaid, by adjournment from place to place, and from time to time, until the whole number of shares shall have been subscribed; of which adjournment, the commissioners shall give such notice as the occasion may require.

When company
may organize.

§ 4. That when five hundred shares of said stock shall have been subscribed, the commissioners shall give ten days notice, to be written or printed, to be put up in the most public places in Mountsterling, Kiddville, Red River Iron Works, and Irvine, and other public places along the line of said road, that the requisite number of shares for organization have been subscribed, and that a meeting of the stockholders will be held at such place as the commissioners may designate in said notice, for the purpose of organizing a board of managers for the purpose of constructing said road, by accepting this charter, and electing five managers, one of whom shall be president of the board,

Election of
managers.

to be designated as such by the stockholders at the time of the election of said board; also, by the election of a treasurer; at which election at least three of the commissioners shall be present, who shall proceed to take the vote, by ballot, of all the stockholders who may have the right to vote, in person or by proxy in writing, each stockholder having one vote for each and every share of stock he holds. The board of managers shall hold their offices for one year from the day of their election, or until others have been elected and qualified.

§ 5. To enable the board of managers to carry out the objects of this charter, when organized as provided above, it shall be and is hereby declared to be a body corporate and politic, in deed and in law, by the name and style of the board of managers of the Mountsterling, Kiddville, Red River Iron Works, and Irvine turnpike road company, and, under that name and style, shall have perpetual succession, and all the privileges, immunities, and franchises of a body corporate and politic; and shall be capable of taking and holding the capital stock subscribed for as aforesaid, and the increase and profits thereof, and increasing the same, from time to time, by new subscriptions, in such manner as they may think proper, to carry out the intent of this charter; and of purchasing and holding to themselves, and their successors in office and assigns; also, of selling, transferring, and conveying in fee simple all such lands, tenements, hereditaments, and estate, real and personal, as may be necessary for prosecuting their work; of suing and being sued, pleading and being impleaded, defending and being defended, in all courts of law and equity, and in all places whatever; also, to have and use a seal, and the same to alter or renew at pleasure; and to make such by-laws, as may not be inconsistent with the constitution of this state and of the United States, as may be necessary for the government of the affairs of said company, and do all and every other act which a turnpike corporation may lawfully do.

§ 6. That said board of managers shall have power to locate said road on the best and most practicable route from Mountsterling, by way of Kiddville and Red River Iron Works, to Irvine; and whenever the owners of lands on which it may pass, shall claim damages, a jury shall be called to assess such damages (if any;) and either feeling themselves aggrieved by their decision, may traverse their finding, by appeal to the circuit court of the county in which the land may lie. The jury shall be summoned by the sheriff or a constable, and sworn by some justice of the peace; and the fees of the sheriff or constable and justice of the peace shall be the same as now allowed them in trials of the right of property, to be paid by that party against whom the cost shall be adjudged. When

1851.

Term of office.

Corporate name and powers.

May increase capital stock.

Location of road.

How lands may be condemned.

Proceedings therefor.

1881.

Montgomery,
Clarke and Es-
till county courts
may subscribe
stock.

Elections to be
held therefor.

Tax to be as-
sessed.

Dividends to be
paid over to said
counties.

Sheriffs to col-
lect road tax;
their duties and
compensation.

Managers to
keep record.

the owner of the land shall give the board of managers, or their president, five days notice, in writing, it shall be their duty to have a jury summoned within ten days thereafter, unless for good cause shown, under the penalty of fifty dollars for failure to do so.

§ 7. That the Montgomery, Clarke, and Estill county courts, each for itself, are hereby authorized and empowered to order an election to be held in the several precincts of said counties, to take the vote of the people for and against subscribing a stipulated amount of stock in said corporation, for and on behalf of said counties; and when the poll is compared, and it is found that a majority of all the qualified voters, who have voted, have voted in the respective counties in favor of the subscription of said stock, then it shall be the duty of said court, through its treasurer or clerk, to subscribe such number of shares as have been voted upon, and to assess a tax upon all the property and estate, subject to the payment of state revenue, within the limits of said county. The tax thus levied shall not exceed the rate of five cents on the one hundred dollars worth of property, for any one year; and the same, when collected, shall be paid to the treasurer of said county, who shall pay the same in the discharge of the subscription of county stock, as aforesaid, in such proportion, and at such times as may be designated by the board of managers. The dividends or profits arising from said stock shall, from time to time, be paid over to said county courts, whenever dividends are declared, and shall go in aid of the county levy.

§ 8. The sheriffs of the above named counties shall collect the road tax that may be assessed by their respective county courts, under the provisions of this act, and shall pay the same over to the treasurer of the county, on or before the first day of January in each year; next succeeding the year in which the same shall be assessed to be paid; and for collecting and paying over the same to the treasurer, he shall be allowed five per centum on the amount collected and paid over; for failure to collect and pay over the same, he shall be liable to be proceeded against, by motion or otherwise, in the name of the party having a right to recover, the same penalty to which he is liable for a failure to collect and pay over the revenue tax of the state; and the same power is hereby given the sheriff of each county named, to enforce the collection of said tax, as is given by law to enforce the collection of the revenue tax.

§ 9. That said board of managers shall keep a record of their proceedings, which shall at all times be open to the inspection of each and all the stockholders in said company.

§ 10. Said road shall not be made more than thirty nar-

less than ten feet wide, and those who subscribe stock may pay their calls on the same in work or materials, under such regulations as the board of managers may adopt.

§ 11. That when five continuous miles of said road is completed, according to the requisitions of this act, the board of managers may erect a toll gate thereon, and charge the same tolls as are now charged on the turnpike road from Lexington to Winchester.

§ 12. That all the provisions from section 6 to section 24, inclusive, of an act, entitled, an act to incorporate the Frankfort, Georgetown, and Paris turnpike road company, approved February 28th, 1835, except so far as is already provided for in this act, or may come in collision with it, so far as the same are applicable to the objects and intent heretofore, be and the same are hereby adopted and re-enacted as a part of this act.

Approved December 20, 1851.

1851.

Stock may be paid in work.

When 5 miles completed, toll gates may be erected.

Certain sections of charter of the Frankfort, Georgetown, and Paris turnpike road, adopted.

CHAPTER 152.

AN ACT to provide for the construction of a Levee from the town of Hickman to the Tennessee line.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That at or before the February term, in 1852, the Fulton county court shall appoint two judges, a sheriff, and clerk, who, after being first duly sworn faithfully to perform their duties, shall, at the dwelling house of Jacob Lewis, in Fulton county, on the fourth Saturday in February, 1852, hold an election for the purpose of ascertaining the wishes of all persons owning land in that portion of Fulton county, living from the town of Hickman, down the Mississippi river, to the Tennessee line, and back from the river as far as the land shall, at the highest stage of water, be subject to overflow, as to the propriety of accepting the provisions of this act.

§ 2. The clerk shall open a poll with two columns, "for the levee," "against the levee," and shall propound to each voter the question, "are you for the levee?" If he shall answer in the affirmative, his vote shall be set down in the column "for the levee." If in the negative, it shall be set down in the column "against the levee." The votes of all male persons over twenty-one years of age, owning land within the bounds above specified in section 1, shall, if offered, be taken. The election shall, in all other respects, be conducted as other elections in this commonwealth. The officers shall foot up the vote, and certify the result, and the sheriff shall deliver the certificate to the county court, who shall order the same to be recorded. If a majority of those voting shall have voted "for the levee," the whole of this act shall go into effect, and the county court

Election.

Duty of clerk.

1851:

shall proceed to carry out the same. If a majority shall vote against the levee, then the remainder of this act shall be null and void.

Duty of county court.

§ 3. Upon the reception of the certificate of the officers holding such election, showing that a majority of those voting have voted for the levee, or if no election shall be had, it shall be the duty of the county court of said county, on or before the first Monday in May, 1852, to appoint four persons, who shall be landholders, and residents upon the land to be protected by the proposed levee, two of whom shall reside above and two below number eight slough, and also a fifth disinterested person from some other portion of said county, who shall act as umpire in case the persons aforesaid should disagree and be equally divided, who shall, within twenty days after their appointment, meet at the town of Hickman; and, (provided they shall think his services necessary,) in company with the county surveyor of Fulton county, after being first duly sworn truly, faithfully, impartially, without favor or affection, to discharge and perform the duties imposed by this act, shall proceed, with all reasonable expedition, to view and plainly mark the route for a levee from Hickman to the Tennessee line, running in all parts thereof as near the bank of the Mississippi river, under all the circumstances, may be reasonably practicable, noting the required height of the levee throughout the whole length thereof, the length of the same, the names of all persons over whose lands it passes, the crossings of all sloughs and drains, their width and depth, and report the same to the county court, together with the best estimate they can make of the probable cost of constructing the levee; and upon the route so run and marked, the levee shall be made.

Surveyor to be appointed; his duties.

§ 4. Upon the reception of the report of the viewers aforesaid, the county court shall appoint three persons, residents upon the land to be protected by the proposed levee, (and two of whom may act,) who shall be styled "levee commissioners," who shall immediately proceed to advertise and let out to the lowest bidder, upon such terms and at such times and places as they may designate, the construction of the levee, in such form and in such number of lots or divisions as they may deem expedient. They shall take from the undertakers bonds with good security, payable to the treasurer of the levee funds, for the faithful performance of their contracts, which bonds may be recovered upon as often as they are violated, until the whole amount thereof shall be recovered and paid; any moneys so collected, shall be and compose a part of the levee funds.

Levee commissioners; their duties.

§ 5. When any contractor shall have completed his undertaking, he shall notify the levee commissioners of the fact, who shall at once proceed to examine the work done. If it is done in accordance with the contract, they shall re-

ceive it, and give an order to the treasurer for the sum due or to become due for the same.

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§ 6. The court shall also appoint a treasurer of the levee funds, who shall give bond for the faithful performance of his duties, in a sum at least double the amount which the viewers shall be of opinion that the levee will cost, with at least three good and sufficient securities, and shall take an oath that he will truly and faithfully discharge the duties of treasurer of the levee funds, and that he will not use, loan, or in any way permit the levee funds to be used for any business or purpose whatsoever, save that he will promptly pay them over, upon the legal orders of the levee commissioners, to such persons as may be entitled thereto for work and labor done upon the levee.

Court to appoint trustee of the fund.

§ 7. At the same term that the report of the viewers is received, the court shall lay such tax by the acre, collectable in one, two, or more years, on all the lands and town lots, if any will be protected by the levee, (the lots to be taxed according to value,) as shall be found to lie within the bounds above described in section one; as will, after deducting therefrom the necessary incidental expenses, be sufficient to pay for and complete the levee.

Court to levy a tax.

§ 8. The sheriff of Fulton county shall, on or before the first Monday in November, in each year, collect and pay over to the treasurer of the levee funds all taxes laid for the purpose of constructing or keeping said levee in repair, at the same time and in the same manner that other taxes are collected, and, for that purpose, shall have full power, upon thirty days advertisement, to sell so much of any lands upon which the taxes are not paid in due time, as may be necessary to pay the taxes due thereon; and upon his failure to pay over, within the time herein prescribed, any taxes by him collected under the provisions of this act, the treasurer of the levee funds shall give him ten days notice, in writing, and before the county court, which court is hereby authorized to give the same, shall take judgment against him (the sheriff,) and his securities for the amount found to be due and unpaid, and shall forthwith issue execution therefor, indorsed, "no security to be taken:" *Provided*, that the sheriff may retain the same commission for collecting that is, by law, allowed for collecting the revenue tax of the commonwealth: *And, provided further*, that the county court may exempt from taxation, under this act, any lands left between the levee and the river.

Sheriff to collect tax.

Sheriff's fee.

§ 9. The treasurer shall pay out the levee funds only upon the order of the levee commissioners, (orders of the county court for the services of viewers, commissioners, and surveyor excepted,) for work and labor done upon the levee; and if he shall fail or refuse to pay any order, he having received the funds necessary to meet the same, he may be proceeded against in the same manner and in all

Treasurer to pay over funds.

1851.

respects with the same effect as above provided in case of a defaulting sheriff, and for this or other good cause, may, with ten days' notice, be removed by the county court, and another appointed in his place. The court may also fill any vacancies that may happen under the provisions of this act, either from failure or refusal to act, or otherwise.

Treasurer to
report state of
business.

§ 10. At the November court, in each year, the treasurer of the levee funds shall make a detailed report to the county court of all moneys received by him from the sheriff, or any other person, under the provisions of this act; and, also, all moneys by him paid out, to whom paid, and for what purpose, and shall, also, exhibit to the court, and give copies of all orders of the levee commissioners by him paid; which report and copies shall be filed and recorded; and, at the same term of the court, the sheriff shall exhibit the originals, and give copies of all receipts by him taken from the "treasurer of the levee funds" for moneys to him paid, under the provisions of this act; which copies shall be received, and be evidence of the amount of funds received by the treasurer.

Compensate
for services.

§ 11. The county court, out of the funds levied for constructing the levee, may allow the viewers, commissioners, surveyor, and treasurer a reasonable compensation for their services, and any allowance so made shall be paid by the treasurer.

Taxes to be
levied by the
county court.

§ 12. The taxes necessary to keep the levee in good repair shall, from time to time, be laid by the county court, collected and accounted for, and in all respects disbursed as required by the foregoing provisions of this act.

§ 13. If a convenient wagon road shall at any time be made upon said levee, the county court may authorize the erection of toll gates thereon, fix the rate of tolls, and appoint collectors thereof, and make all needful regulations concerning the same; and, after the payment of the necessary incidental expenses, all of the tolls, as collected, shall be devoted to keeping the levee in good repair, and to no other use or purpose.

Commissioners
to file bonds.

§ 14. The "commissioners of the levee" shall file with the treasurer all bonds by them taken, under the provisions of this act; and all bonds which they may take shall set forth the amount of all payments to be made to each of the contractors, and the times when such payments will be due.

§ 15. Any person aggrieved by the location of the levee may sue out a writ to ascertain the damages, as though the same were a road.

Approved December 20, 1851.

LAWS OF KENTUCKY.

CHAPTER 154.

AN ACT to change the time of holding the Logan and Campbell county Quarterly Courts, and the County Court of Barren county.

§ 1: *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, hereafter, the judge of the Logan county court shall hold the quarterly terms of said court on the first Mondays in January, April, July, and October.

Logan.

§ 2. That the quarterly terms of the Campbell county court shall be held on the fourth Monday in the months in which they are now held: *Provided*, that should the regular monthly terms of said county court be not adjourned in time for holding said quarterly terms on Mondays, as above provided, then said quarterly terms shall be held on the day succeeding the adjournment of said monthly terms.

Campbell.

§ 3. That, hereafter, there shall be held in the county of Barren, on the third Monday in March and September, regular terms of the Barren circuit court.

Barren.

Approved December 27, 1851.

CHAPTER 155.

AN ACT to empower the city of Newport to convey lot No. 3, in said city.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the president and common council of the city of Newport be and they are hereby authorized, and empowered to convey fractional lot No. 3, on the north side of that street, in said city, to James H. McClure, in fee simple, upon such terms and in such manner as they may deem best.

Approved December 27, 1851.

CHAPTER 156.

AN ACT to amend an act incorporating the Richmond Cemetery Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act, entitled, an act to incorporate the Richmond cemetery company, approved January 25, 1846, be so amended as to empower said company to purchase not more than thirty acres of land for their purposes, and that the name of William Rodes be substituted for that of John F. Busby, as one of the corporators.

Approved December 27, 1851.

CHAPTER 157.

AN ACT to extend the corporate limits of the city of Newport.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the following tract of land is here-

1851;

by added to and made part of the city of Newport, and subjected to all the laws and regulations relating to said city, as now established, viz: beginning at the eastwardly intersection of Ringgold and Saratoga streets; thence with Saratoga street, south-eastwardly, four hundred and eighty feet, to the intersection of Saratoga and Harris streets; thence, north-eastwardly, with Harris street, three hundred and ninety-six feet, to the intersection of Harris street and East Row; thence with East Row, north-westwardly, four hundred and eighty feet, to the intersection of East Row and Ringgold street; thence with Ringgold street, south-westwardly, three hundred and ninety-six feet, to the beginning; said addition containing twenty-eight lots, numbered from No. 63 to No. 77, inclusive, as will appear by the recorded plat of said addition, now of record in the office of the clerk of the Campbell county court.

Approved December 27, 1851.

CHAPTER 158.

AN ACT to charter the town of Mount Olivet, in Nicholas and Bracken counties.

Mount Olivet
incorporated.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the place situated in the counties of Nicholas and Bracken, known by the name of Mount Olivet, and all lots which may hereafter be laid off into town lots adjacent thereto, be and the same is hereby incorporated as a town by that name, the trustees of which shall have power and authority to pass by-laws for its government and regulation, not inconsistent with the constitution and laws of this commonwealth.

Trustees may
enact by-laws,
&c.

Trustees' names

§ 2. That Vivian Brooking, John S. Vimont, Halton Bently, and Eldridge Kenton, be and they are hereby appointed trustees of said town, who shall appoint one of their number president of the board, and shall continue in office until their successors are elected.

Election of
trustees.

§ 3. There shall be elected, annually, on the first Monday in January, by the qualified voters of said town, not less than three nor more than five trustees, as may be determined by the trustees herein appointed; and any person who is a legal voter may be elected trustee.

Trustees may
appoint other of
ficers and levy a
tax.

§ 4. That the board of trustees of said town may appoint an assessor and a collector, and levy and collect a capitation tax upon the tithables, and an *ad valorem* tax upon the property in said town: *Provided*, that the tax thus levied and collected shall not exceed the sum of fifty dollars in any one year, which shall be applied to the improvement and police of said town.

Approved December 27, 1851.

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CHAPTER 160.

1851.

AN ACT for the benefit of School District No. 20, in Crittenden county.

WHEREAS, it is represented to this general assembly that the trustees of school district No. 20, in the county of Crittenden, had a school taught therein in 1850, and made a report according to the common school laws, which report was inadvertently omitted in the report of the superintendent of public instruction, although received by him, and thereby said district failed in obtaining the amount, to which it was entitled to under the law. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the treasurer be and he is hereby directed to pay to the order of Chester C. Cole, as commissioner for Crittenden county, the sum of thirty dollars and eighty cents, out of any money not otherwise appropriated, for the use of said district No. 20, of said county.

Approved December 27, 1851.

CHAPTER 161.

AN ACT for the benefit of the Kentucky School of Medicine.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the institution now established in the city of Louisville, under the name of the Kentucky school of medicine, be hereafter managed by a board of regents, consisting for the time being, of the following persons, viz: John P. Morton, Willis Stewart, A. A. Gordon, P. R. Gray, William Riddle, A. J. Ballard, and D. Monparnat; and for this purpose, they are hereby created a body corporate and politic, and are invested with the power of conferring degrees in medicine, and with all collegiate privileges.

Corporation created.
Corporate name.

Corporators.

§ 2. The board of regents shall have power to make all necessary statutes and regulations for the government of the school, and to fill vacancies that may occur in their body by death, resignation, or otherwise.

Regents may enact by-laws, and fill vacancies.

§ 3. The board of regents shall have power to acquire and hold, by gift, purchase, or otherwise, property for the benefit of said school, not exceeding in value one hundred thousand dollars; and shall have the power to sue and be sued as other corporations.

Corporate powers.

§ 4. The general assembly reserves the right to alter or repeal this charter.

Repealing power reserved.

Approved December 27, 1851.

1851.

CHAPTER 163.

AN AOT for the benefit of H. Woodyard, late Sheriff of Grant county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That time be allowed Henry Woodyard, late sheriff of Grant county, until the first day of January, 1852, to collect the balance of taxes and fee bills due him for the years 1848 and 1849, and that the said Woodyard be permitted to put the same in any officer's hands for collection, he being accountable for their acts.

Approved December 27, 1851.

CHAPTER 164.

AN AOT to repeal an act, entitled, an act to amend the road law in Pendleton county, approved February 25, 1851.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act to amend the road law in Pendleton county, be and the same is hereby repealed; and that the roads in said county be hereafter worked under and according to the provisions of the general laws respecting roads in this commonwealth.

Approved December 27, 1851.

CHAPTER 165.

AN AOT to change a place of voting in Muhlenburg county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the third section of an act to change the justices' districts in Muhlenburg county, and to establish an election precinct, approved March 22, 1851, be and the same is hereby repealed.

Approved December 27, 1851.

CHAPTER 166.

AN AOT to change the place of voting in an election precinct in Jefferson county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting is hereby changed from the house of William Kennedy, in Jefferson county to the house of Mansfield Kennedy, in the same precinct and county.

Approved December 27, 1851.

LAWS OF KENTUCKY.

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CHAPTER 167.

1851.

AN ACT for the benefit of James H. Godsey, former Sheriff of Johnson county, and George H. Morrow, late Sheriff of McCracken county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James H. Godsey be allowed the further time of one year to collect the arrearages of taxes, fee bills, and county levies, which are due him as sheriff of Johnson county, for the years 1848 and 1849; and that George H. Morrow, late sheriff of McCracken county, be allowed to collect any and all taxes and fee bills that may be due him as sheriff.

Approved December 27, 1851.

CHAPTER 168.

AN ACT to suspend the operation of the law in relation to changing common School Districts, in the county of Christian.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That for the purpose of allowing the county of Christian to arrange, systematically and speedily, her common school districts, the law approved March 3, 1851, prescribing the mode of changing such districts, be and the same is hereby suspended in said county until said districts are arranged.

Approved December 27, 1851.

CHAPTER 169.

AN ACT to exempt certain persons from paying tolls at the gates on the Lexington and Covington Turnpike Road, in Grant county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, toll shall not be exacted at any of the toll gates on the Lexington and Covington turnpike road, in Grant county, from any person or persons going to or returning from any mill or funeral, or with any funeral procession, or to or from any general election, in said county, or any school, militia muster, or neighboring place of public worship on the sabbath; but all such persons, with their horses and vehicles, for the time being, shall pass free of toll.

Approved December 27, 1851.

CHAPTER 170.

AN ACT to prevent the erection of obstructions on Quicksand Creek, in Breathitt county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act,

1851.

all persons are prohibited from building fences or water gaps on main Quicksand creek, in Breathitt county, on any part of said creek which may be navigable, at any season, for boats, rafts, or logs, and that any person violating the provisions of this act shall be liable to a fine of not less than twenty-five nor more than fifty dollars, to be recovered upon the presentment of a grand jury.

Approved December 27, 1851.

CHAPTER 171.

AN ACT altering School Districts Nos. 55 and 29, in Morgan county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all that part of school district No. 29, in Morgan county, lying on the west side of Little Sandy river, be and the same is hereby erected into a separate district; and all that part of said district lying on the east side of said river, be and the same is hereby attached to district No. 55; and the county commissioners of said county, or a majority of them, are hereby directed to alter and arrange said districts in accordance with the provisions of this act, and with the provisions of an act, approved February 10, 1845, entitled, an act to reduce into one the several acts concerning common schools, and more effectually to establish the same in this commonwealth.

Approved December 27, 1851.

CHAPTER 172.

AN ACT to establish and regulate the width of a certain portion of the road leading from Richmond to Mount Sterling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the Richmond and Mount Sterling road, by Jackson's ferry, as lies between the mouth of the Dry Fork of Indian creek and Thomas Woosley, senior's, where it intersects the Winchester and Irvine road, in Clarke county, be and the same is hereby established as a public road thirty feet wide, on the north or left hand side of a road line as surveyed and marked by William Flanagan, surveyor of said county, along said line to a sugar tree, corner to the lands of Francis F. Jackson and James Lane; thence with the road now used to the intersection of the Irvine and Winchester road, named above, and near the house of said Woosley, as reviewed by David T. Haggard, David Reed, and Martin Haggard, as reviewers, in February, 1842, as shown by the report to said county court.

Approved December 27, 1851.

LAWS OF KENTUCKY.

405

CHAPTER 173.

AN ACT for the benefit of William Alexander.

1851.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the clerk of the county court of Breckinridge county shall transmit all of the original papers pertaining to the estate of Tecumseh Brown, deceased, late of said county, together with a copy of all the orders and steps touching the administration of the estate of said Brown, to the clerk of the county court of Meade county, whose duty it shall be to record the same in his office, and preserve them as other records are kept. He shall also transmit a copy of all orders, or other records, in relation to the guardianship of William Alexander, as guardian of William B. Brown, infant son of said Tecumseh Brown deceased, to the clerk of the Meade county court, who shall also commit the same to record; and, hereafter, the said William Alexander, as administrator of the said Tecumseh Brown, deceased, and as guardian of the said William B. Brown, as such, shall make all of his settlements as administrator and guardian, in the county of Meade, instead of the county of Breckinridge.

Approved December 27, 1851

CHAPTER 174.

AN ACT for the benefit of William Meredith.

WHEREAS, many years since, a survey was made in Pulaski county for four hundred acres of land, by the deputy surveyor of said county, by virtue of a county court certificate, No. 888, dated January court, 1806, in favor of William Tuggle, said survey having been made in favor of William Meredith, assignee of John Chesney, who was assignee of said William Tuggle, and said surveyor failed to date said survey, and has since departed this life, and said Meredith has also departed this life, leaving heirs; and it being represented to this general assembly that the register of the land office is not authorized to receive and register said survey, for want of a date thereto. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the register of the land office be and he is hereby authorized and directed to receive and register said survey for four hundred acres of land, lying in Pulaski county, in the name of the heirs of William Meredith, deceased, and at the proper time to issue a patent therefor to said heirs, agreeably to said survey.

Approved December 27, 1851.

LAWS OF KENTUCKY.

1851.

CHAPTER 175.

AN ACT for the benefit of B. G. Dudley.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That B. G. Dudley, late clerk *pro tem.* of the Fulton circuit court, be allowed until the first day of July, 1852, to list his fee bills for collection, and, when so listed with the proper officer, he shall be bound to collect or account for them within the time prescribed by law.

Approved December 27, 1851.

CHAPTER 176.

AN ACT to incorporate the Independent Fire Company Washington, No. 1, of Maysville and suburbs.

Corporators' names.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That David Clarke, Henry Rudy, Stanislaus Mitchell, F. McClanahan, H. W. Woodsworth, Joseph F. Bradrick, B. C. Garew, Conrad Rudy, William Bridges, Jo. Phister, Godfrey Phegna, and their associates, are hereby created a body politic and corporate, by the name and style of the independent fire company "Washington, No. 1," of Maysville and suburbs; and, as such, shall have perpetual succession, and may be capable, in law, of contracting and being contracted with, suing and being sued, pleading and being impleaded, in any action or suit, or any court whatever, and may have and use a common seal, and change the same at pleasure.

Right to hold fixtures, &c.

§ 2. Said company shall be composed of five fire companies, two hose companies, and two hook and ladder companies, and shall have the right to purchase and hold two or more fire engines, hose carriages and hose for same, and suitable hook and ladder apparatus, and all the necessary fixtures and tools for the use and repair of the same; to sell, convey, and purchase other engines, hose carriage, hose, &c. They may purchase and hold, in the city of Maysville, as much ground as they may require for a convenient and necessary engine house or houses, the value of houses and grounds not to exceed twenty-five thousand dollars, which amount of property they may hold and dispose of in such manner and upon such terms as to them may seem fit.

Officers chosen.

§ 3. The management and control of said company and its property shall be under the direction of a president and vice president, with six directors; the president and vice president to be chosen from the company generally, and the directors to be chosen, two each, from the engine company, the hose company, and the hook and ladder company; which officers shall be chosen at such times and place as the company may direct by their by-laws; and they may have a treasurer and secretary, and keep a record of their proceedings.

§ 4. This company shall be entitled to three hundred members, who shall be exempt from military duty, except in time of war.

1851.

§ 5. Said company shall have power to pass all such by-laws and ordinances for the government and management of said company, as may or shall be deemed necessary, not inconsistent with the constitution and laws of this state.

Approved December 27, 1851.

CHAPTER 177.

AN ACT to amend an act, entitled, an act to incorporate the Lexington and Danville Railroad Company, approved March 5, 1850.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Lexington and Danville railroad company, be and it is hereby authorized to indorse and assign the bonds of the county of Fayette and of the county of Boyle, which may be issued to said company by the county courts of Fayette and Boyle county, and, also, any other bonds which may be issued to said company for stock subscribed, or which may be subscribed to the capital stock of said company, and, by the indorsement and assignment of said bonds, to bind the assets of said company, as by any other contract which said company might make under their charter.

Bonds of Fayette and Boyle.

§ 2. That being a tax payer in any county or town which has subscribed or shall subscribe stock in said company, shall not be regarded an interest in said company sufficient to disqualify any person from testifying as a witness, sitting as a juror, or performing any judicial function involving the interests or rights of said company, in condemning land for the right of way for said road, or acting upon any right, claim, or interest of said company.

Tax payer in county subscribing gives no interest.

§ 3. That the board of directors of said company may require the county court of any county through or into which it may be proposed to locate and construct said railroad, except the county court of Mercer, to submit to the legal voters of said county a proposition for said county to subscribe for stock in said railroad company to an amount not exceeding three per cent. of the taxable property in said county, said subscription to be made upon such conditions as said company may propose, in writing, to said court; and it shall be the duty of said county court to submit to the legal voters of said county, at such time as said company may designate, the question whether or not said county shall subscribe the sum proposed to be subscribed, according to the conditions which may be proposed by said company; the said court shall cause public notice of said election to be given to the voters of the county, and

Vote to be submitted.

1851.

shall appoint the necessary officers to hold the election, and said officers shall hold the same at the various election precincts of said county, and make the return thereof; and they and all voters shall act and vote under same requirements and penalties as are prescribed for holding the elections for members of the legislature; and if a majority of the voters voting shall be in favor of making said subscription, it shall be the duty of the presiding judge of the county court of said county to make a subscription, upon the application of said company, in the name of said county, to the capital stock of said company for the amount so voted to be subscribed, payable according to the conditions of said orders and propositions.

Duties of the
county court.

§ 4. That at the July term, in such years of the county court of said county after said subscription of stock may be made, it shall be the duty of said court to ascertain the amount of money to be paid on said subscriptions within the year succeeding, and shall assess and levy an *ad valorem* tax for the amount so to be paid, and, also, a sum sufficient to pay sheriffs' commissions, two per cent., for collecting said sums, and all such sums as may, in the judgment of said court, be sufficient to cover the loss by the delinquents and other contingencies incidental to the collection thereof, upon the property, both real and personal, as listed for state purposes, which shall lie or be most usually kept in said county, including the amount given in under the equalization law. And the commissioners of tax for said county shall distinguish, in their tax list, between the property listed, both real and personal, which is most usually kept in said county, and that which lies or is most usually kept in any other county; and the tax payers of said county shall be entitled to stock in said company for the amount of the tax which shall be paid by them.

Duties of the
commissioners
of tax.

§ 5. That the sheriff of said county shall collect all the taxes to be collected under the authority of this act; and for that purpose, shall have the same power of distraining, advertising, and selling personal estate and slaves, which he may have in the collection of the state revenue, and when unable to find personal estate or slaves liable to the tax of any individual, he may levy on his real estate, and sell the same, under the rules and regulations prescribed for the sale of real estate under execution. It shall be the duty of the county court of said county to require the sheriff of said county to execute bond, in a penalty double the amount of the tax to be levied in each year, payable to the commonwealth, conditioned faithfully to pay over to said company all sums of money which he may or should collect, and with such other conditions as said company may desire; and he shall collect the same in each year that the same is levied, and pay it over to said company, on or before the 30th of December of that year, and shall be lia-

Bond to be
executed.

ble to pay interest on all sums which he fails to pay over to the said company by said 30th of December, from said day: *Provided*, that if said sheriff shall fail or refuse, at the July term in each year, to execute bond as required, said court shall appoint a collector, who shall be authorized and required to collect said taxes, and pay over the same as though he was the sheriff of said county, and according to the requirements and regulations aforesaid. The sheriff's or collector's receipts for tax paid may be assigned; and whenever the amount of fifty dollars is produced to said company, it shall issue a certificate of stock therefor, and, also, for one-half and one-fourth shares, upon the production of receipts for that amount of tax paid.

§ 6. That said company shall have power to construct a bridge across Kentucky and Dick's rivers, for the carriage and passage of persons, stock, vehicles of any kind, upon a separate track of the railroad bridge which they may construct across either of said streams; and they may collect such tolls on the same, and, as to the management of said ordinary road track, be regulated by the laws in force in relation to the bridge across the Kentucky river near the mouth of Hickman: *Provided*, that said bridges, thus erected, shall not obstruct the navigation of said rivers.

§ 7. That said company may sell and transfer the bonds which they may receive as stock, and, also, the bonds of said company, upon such terms as the said company may consent to.

§ 8. That the Lexington and Danville railroad company be and they are hereby authorized to continue said road through this state, from Danville, in the direction of Tennessee, and to locate and construct a railroad, under the provisions of their charter, and this amendment thereto, through any part of this state in the direction of Nashville, in Tennessee, or towards any other point in the state of Tennessee, which said company may select, and to unite with any railroad company which is now, or may hereafter be chartered by the legislature of Tennessee to construct a railroad in that state, upon such terms as may be acceptable to said Lexington and Danville railroad company; and, for the purposes mentioned in this act, said company may increase its capital stock to any amount which it may deem necessary, and may receive subscriptions to their capital stock by any state, city, county, railroad, or other corporation whatsoever, and payable in such manner and upon such conditions as may be agreed upon by the subscribers and said company.

§ 9. If said railroad company shall determine to extend said road, the county court of any county through or into which it may pass, upon the application of said company, may have a vote taken by said city or county, upon a proposition to subscribe stock, payable as provided for in this

1851.

Collector to be appointed.

Bridge; rates of toll.

May extend the road to the Tennessee line.

May increase capital stock.

Counties may take stock.

1851.

act, or payable in bonds, subject to such conditions as may be proposed by said company; and if in bonds of any city or county, all the proceedings in relation to said vote and subscription, and the collection and payment thereof, and all proceedings incident thereto, shall be conducted and regulated according to the provisions of an act, entitled, an act to authorize the county of Fayette and city of Lexington to subscribe stock in railroad companies, approved January 25, 1851; and said act shall be applicable to said county or city as though it was specially re-enacted for the benefit of said county or city.

§ 10. That said company is hereby authorized, to construct and use a railroad, and to enjoy and exercise any corporate rights in the state of Tennessee, which the legislature of the state of Tennessee may confer on said company.

May construct
telegraphic lines

§ 11. That said Lexington and Danville railroad company be and it is hereby authorized to purchase and own a line and the usual fixtures for telegraphing, near the road which it may construct, or may become owners of stock in any company which may construct such line of telegraph.

§ 12. That the subscriptions of stock to said railroad company, by the county courts of Fayette and Boyle counties, be and they are hereby ratified and approved by this general assembly, and the county courts of said counties, and all the officers of said counties, are required and directed to issue the bonds, and proceed to levy, assess, and collect the taxes to pay the interest on the same, according to the true intent and requirements of the laws authorizing the votes and subscriptions, notwithstanding any informality or irregularities which may have been in the proceedings hitherto.

Who to cast
the votes of the
county.

§ 13. That the county court of any county which may subscribe stock, under the provisions of the third, fourth, and fifth sections of this act, shall appoint three commissioners, who, or a majority of whom, shall cast the vote of the county, at all elections and meetings of the stockholders, for the number of shares which said county has subscribed, less the amount which may have been issued to tax payers in said county on account of payments of stock so subscribed.

Approved December 27, 1851.

CHAPTER 178.

AN ACT to establish the Enterprise Tanning and Leather Manufacturing Company, of the county of Lewis.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky, That a company shall be and the same*

is hereby incorporated, by the name and style of the enterprise tanning and leather manufacturing company, of the county of Lewis, with a capital stock of fifty thousand dollars, to be divided into shares of one hundred dollars each, for the purpose of carrying on the tanning and leather manufacturing business in all its various branches, in said county. And said company shall have power and authority to purchase and hold all such real and personal estate as may be necessary and convenient for the use of tanning leather, manufacturing boots, shoes, saddles, and harness, and of doing all other legitimate business appertaining to said business, and to contract and be contracted with, sue and be sued, plead and be impleaded, and to do and perform all and singular the acts and things that the individual owners and proprietors of tanneries and leather manufacturing establishments may lawfully do and perform in the construction, management, and disposition of said property; and the said company may make and use a common seal, and change, alter, or renew the same at pleasure; and make by-laws, regulating the time and place of electing officers of said company, and the period of their service, the time and place of holding elections, and of filling vacancies that may arise in the offices, and who shall have power to do so, and the time and place of holding meetings of the stockholders, and generally to regulate the mode and manner of performing all acts in relation to the management and prudential concerns of said company, and the mode and manner of transferring the stocks of said company, which is hereby declared personal estate; but none of the rules and regulations of said company shall be contrary to the laws and constitution of this state or of the United States.

§ 2. That the management of said company and its prudential concerns shall be under the direction of a president and five managers, any three of whom shall constitute a quorum for the transaction of business; and they may appoint such officers and agents as may be required for the transaction of the business of said company, as may be agreed on by the board; and they shall cause a particular record of their proceedings to be kept and registered in a book to be provided by the board of managers for that purpose.

§ 3. That Larkin J. Proctor, William C. Ireland, William C. Halbert, Seth Parker, and John McDaniel shall be the first board of managers, who shall meet at any convenient time and place after the passage of this act, and appoint any two or more of their own body to open books for the subscription of stock, at such time or times as they may direct, in the town of Clarksburg, and such other places, either in or out of the state of Kentucky, as they may think most likely to accomplish the object contemplated by this act,

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Capital stock.

May hold real estate, sue, &c.

Meetings of stockholders.

Management confided to president, &c.

First board.

1851.

and may, if they think it necessary, advertise in one or more newspapers the time and place of opening books, or they may raise the stock without advertising, as they may think most conducive to the interest of the company, and may have and make an agreement as to the time subscribers shall pay for their stock, or they may leave to the discretionary calls of the managers.

When shall or-
ganize.

§ 4. That when the sum of five thousand dollars, or upwards, shall be subscribed, the persons named as aforesaid, or a majority thereof, shall meet and choose one of their own body president, and the corporation shall be considered as organized, and authorized to proceed to the purchase of real estate and the erection of a tannery, and to do and perform all other necessary acts and things necessary to carry into complete operation the business aforesaid; and they may, thereafter, proceed and sell the residue of the stock, or so much thereof as will be requisite for the construction of the buildings, purchase real estate, and laying in of stock, as will be sufficient to carry on the business of said company; and when done, and annual or semi-annual dividends shall or may be made of the profits of said company, at the discretion of the board of managers.

Approved December 27, 1851.

CHAPTER 179.

AN ACT for the benefit of George H. Morrow.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the auditor of public accounts be instructed to draw his warrant upon the treasury, in favor of George H. Morrow, for the sum of twenty dollars and eighty-two cents, and the treasurer to pay the same out of any moneys in his hands not otherwise appropriated.

Approved December 27, 1851.

CHAPTER 180.

AN ACT to change the State road leading from Hopkinsville to Clarksville, in Tennessee.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James Clark and William S. Moore be and they are hereby appointed commissioners to change the state road leading from Hopkinsville to Clarksville, in Tennessee, between the south corner of James Clark's fence and the south corner of Edwin S. Edmund's farm, a distance of about one and a half miles: *Provided*, that by such change the distance between the points named be not increased, nor the road placed on worse ground than that on which it now runs.

Approved December 27, 1851.

CHAPTER 181.

1851.

AN ACT for the benefit of William Davis, a former Sheriff of Whitley county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That William Davis, and his deputies, who acted as sheriff in the county of Whitley for the years 1848 and 1849, have the further time of two years, from and after the passage of this act, allowed them to collect their fee bills and what tax may be due them for the years 1848 and 1849.

Approved December 27, 1851.

CHAPTER 182.

AN ACT to create the offices of Police Judge and Marshal of the town of Rumsey.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the offices of police judge and marshal of the town of Rumsey, in the county of Muhlenburg, are hereby created.

§ 2. On the first Saturday in February, 1852, or at any time thereafter, the trustees giving ten days written notice thereof, to be posted up in at least three conspicuous places in the town of Rumsey, the qualified voters of said town shall, under the supervision of the trustees, elect a police judge and marshal of said town, the former of whom shall hold his office until the next election of justices of the peace for said county, and until a successor is qualified, and the latter until the next election of constables in said county, and until his successor is qualified; and, thereafter, the police judge shall be elected for the term of four years, and the marshal for the term of two years.

Officers to be elected.

§ 3. It shall be the duty of the clerk of the board of trustees of said town, immediately after the election of a police judge, to certify the same to the secretary of state; and the governor shall, thereupon, issue a commission to the person elected, according to the tenure of his office.

Duties of clerk.

§ 4. It shall be the duty of the trustees to cause a fair and plain record of such elections to be made in their book, and to declare, by entry in their book, who is elected marshal, and, thereupon, said marshal shall enter into covenant to the commonwealth, containing such stipulations as are required in constables' bonds, with such other stipulations as the trustees, in their discretion, may think necessary, with such sureties as the trustees may require.

Duty of trustees.

Marshal to give bond.

§ 5. Upon giving such covenant and taking the oaths of office, the marshal shall enter upon the duties of his office.

§ 6. The police judge and marshal of Rumsey shall have all the jurisdiction, authority, and powers in the town of

Powers of police judge and marshal.

1851.

Rumsey, and the justices' district embracing the same, and in the county of Muhlenburg, as are given by law to the police judge and marshal of Hartford, in the town of Hartford, and the justices' district embracing the same, and the county of Ohio, as by the several acts therein specified, governing the police judge and marshal in said town of Hartford; and shall, in all respects, be governed by the same rules and regulations, and by any by-laws and ordinances of the town of Rumsey, not inconsistent with the constitution and laws of the state.

Approved December 27, 1851.

CHAPTER 183.

AN ACT concerning the Marshal of the town of Lancaster, and to establish the office of Marshal in the town of Richmond.

Election of P.
J. D. Williamson
legalized.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the election of Patrick J. D. Williamson, as town marshal of the town of Lancaster, by the qualified voters thereof, at an election held on the 12th day of May, 1851, be and the same is hereby ratified and confirmed; and all the acts of said Williamson, in his official capacity as such, are hereby made as legal and binding as though he had been elected on the second Monday of May aforesaid.

Election trustees and marshal.

§ 2. That the election of trustees and marshal of said town shall hereafter be held, at the court house therein, on the first Monday of June in each year successively.

Collection of tax list.

§ 3. That it shall be the duty of the present board of trustees to deliver to said P. J. D. Williamson, the tax list upon the real and personal estate of the citizens of said town, and the titables thereof, for collection.

Appointment of tax collector

§ 4. The trustees of said town shall have no power to appoint a collector of the town tax, other than the marshal who has heretofore been elected, or who may hereafter be elected, by the qualified voters thereof, unless said marshal shall fail, within twenty days after receiving a certificate of his election, to be given by the judge and clerk who hold the same, to execute bond with good security, in the penalty of twelve hundred dollars, to be approved of by the county judge of Garrard county, and the clerk of the said county court, and in case of the death, resignation, or absence of either of them, then by the two justices of the peace who reside nearest said town; which said bond may be sued upon, or otherwise dealt with as bonds executed by other county officers of this commonwealth.

Marshal to execute bond.
How to be approved.

Penalty on trustees.

§ 5. That the trustees of said town, in case of their failure to deliver to the marshal aforesaid the tax books thereof, upon his written demand to such of them as may be served with said demand, shall severally forfeit the sum of two hun-

dred dollars, to be recovered by motion setting forth the fact in the Garrard circuit court: *Provided*, such trustee or trustees shall have ten days notice thereof, which notice may be executed by the sheriff or any constable of Garrard county.

§ 6. That there is established in the town of Richmond, in Madison county, the office of town marshal, who shall have the same power and authority, be compelled to perform all the duties, shall possess all the rights, and be subject to all the liabilities and penalties which any constable of said county has, possesses, and is liable to by law, or may hereafter have, possess, or be liable to; and all laws hereafter enacted in relation to constables, shall be applicable to said marshal. He shall have the same fees which constables are now or may hereafter be entitled to receive, by law, for like services, and shall be subject to like penalties for taking illegal fees that constables now are or hereafter may be.

§ 7. The said marshal shall be elected for two years, in every second year after the first election, by the qualified voters in said town, when trustees are elected; which election shall be conducted by the same officers who are required by law to conduct the election for trustees; and it shall be the duty of said officers to certify the same to the next county court of Madison to be holden thereafter; and said court shall order said certificate to be entered on their records, and shall administer to the marshal, so elected, a similar oath to that constables are now required by law to take; and shall, also, take from said marshal a bond, to be filed with the records of said court, with good security, in the penalty of two thousand dollars, conditioned that he will well and truly discharge all the duties imposed by law upon him; which bond may be sued upon by any one aggrieved by the acts of said marshal.

§ 8. The first election of said marshal shall be held at the next election of trustees of said town, holden after the passage of this act, and the board of trustees are required to publish a notice of said election at least four weeks antecedent to the same, in the Richmond Chronicle.

Approved January 1, 1852.

1852.

Town marshal
in Richmond.
His power and
jurisdiction.

His fees.

Term of office.

To take official
oath, and ex-
ecute bond.

First election
of marshal.

CHAPTER 184.

AN ACT to change the line of a voting district in Logan county, and justice's district in Boone county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the line of the Russellville precinct, in Logan county, be so changed as to run from Poor's mill to Cyrus McCutcheon's; thence to J. Armstrong's blacksmith's shop, on the Nashville road; thence to J. P.

Logan.

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Freeman's; thence to Z. M. Beall's, that being the intersecting point of the present line; and all citizens who may reside within said boundaries, and are entitled by law to vote, be allowed to vote at the precinct at Russellville.

Boone.

§ 2. That the part of the line between the Union and Walton justices' districts, in Boone county, which extends from Richwood church to Mud Lick meeting house, be and the same is hereby so changed as to make the Louisville road the line between said points, instead of the line heretofore established by law.

Approved January 1, 1852.

CHAPTER 185.

AN ACT for the benefit of Hiram Senior, of Union county, and Benjamin R. Briggs, of Ohio county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Hiram Senior, of Union county, be permitted, and power is hereby given him to complete his mill and dam, on Lost creek, in said county, within five years from and after the passage of this act; and if said mill, dam, &c., be completed within said period, he shall not be subject to any of the pains and penalties prescribed in section seven of an act, entitled, an act to reduce into one the several acts concerning mill dams and other obstructions in water courses, approved February 22, 1797.

§ 2. That Benjamin R. Briggs, of Ohio county, be and he is hereby authorized to erect a mill dam, not exceeding nine feet high, across Rough creek, at the mill seat known as Landrum's old mill, in the county of Ohio.

Approved January 1, 1852.

CHAPTER 186.

AN ACT in relation to the Springfield, Maxville, and Harrodsburg turnpike road company.

WHEREAS, it is represented that the Springfield, Maxville, and Harrodsburg turnpike company have constructed between three and four miles of said road, from Harrodsburg towards Maxville, and are now engaged in erecting a bridge across Salt river where said turnpike road crosses the same, at considerable expense, and which will shortly be completed, and, with the view of allowing the means of keeping said road in repair,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for said company to erect a toll-gate on that part of said road, as soon as said bridge

is completed, and receive tolls in the same proportion that tolls are now received and charged on five miles of turnpike road, and provided, that if no tolls are charged for crossing said bridge, that in the estimation of distance said bridge shall be considered as constituting one-half mile of said road.

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Approved January 1, 1852.

CHAPTER 187.

AN ACT declaring the Elk Fork of Sinking and Greasy creeks navigable streams.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Greasy creek, of Johnson county, is hereby declared a navigable stream.

§ 2. That the Elk Fork of Licking, of Morgan county, be and the same is hereby declared a navigable stream.

Approved January 1, 1852.

CHAPTER 188.

AN ACT authorizing the County Court for Russell county to levy an additional tax on said county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the county court for Russell county, at their next January, February, March, or April term, to levy an additional tax on said county, which tax, in the aggregate, shall not exceed three hundred dollars, and shall be collected by the sheriff of said county, and applied by him in the same manner as though said tax had been levied at the last court of claims for said county.

Approved January 1, 1852.

CHAPTER 189.

AN ACT to incorporate Liberty Lodge, No. 126, of Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of Liberty lodge, No. 126, in New Liberty, Owen county, of free and accepted masons, be and they are hereby created a body politic and corporate, by the name and style of Liberty lodge, No. 126, with perpetual succession; and, by that name and style, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of purchasing and holding all such real and personal estate as may be required for the use of said lodge; to re-

Style of corporation.

1852.

May hold real
estate, &c.

ceive all necessary conveyances ; to sell, convey, and dispose of all such real and personal estate as they may now have or hereafter acquire : *Provided*, the amount of real estate, exclusive of the buildings, shall at no time exceed ten thousand dollars.

To whom man-
agement is con-
fided.

§ 2. That the management of the concerns of said corporation shall be and is hereby confided in Hiram Kelay, Smith Wingate, Tho. C. Nunnally, Samuel J. Garth, and Joseph M. Coats, and their successors in office, as trustees thereof, who, or a majority of whom, shall have power to make all contracts pertaining to the real and personal estate of said lodge ; and service of process or notice on any of said trustees shall be sufficient notice to said corporation.

Trustees; term
of office.

§ 3. That the trustees named in the second section of this act shall hold their offices until the 24th day of June, 1852, when the members of said lodge shall elect five trustees, and continue to hold their elections for the election of trustees on the 24th day of June in each succeeding year : *Provided*, that said trustees shall have power to fill vacancies in their own body, that may occur between the times fixed for their election in this act ; and may pass such by-laws and regulations, not inconsistent with the laws and constitution of this state or of the United States, as shall be necessary to the safe keeping of the property and other interests of the lodge ; and may have and use a common seal, and change the same at pleasure ; and in conveying real estate, it shall be necessary for the whole board of trustees to join in such conveyance.

Vacancies—
how filled.

§ 4. The legislature hereby reserves the right to repeal or change this act at pleasure.

Approved January 1, 1852.

CHAPTER 190.

AN ACT authorizing the Trustees of Russellville to tax nine and ten pin alleys.

WHEREAS, doubts exist whether the act of the general assembly concerning the town of Russellville, enacted in 1840, allows the trustees of said town to tax nine and ten pin alleys ; and it appearing, by the petition of said trustees, that the establishment of nine and ten pin alleys in said town would not only be a nuisance to all orderly and well disposed citizens of said town, but have an immoral tendency upon the community. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the board of trustees of the town of Russellville, in Logan county, be and they are hereby authorized to levy such tax upon nine and ten pin

alleys, in said town, as they may in their discretion think proper.

1852.

Approved January 1, 1852.

CHAPTER 191.

AN ACT to change the county line between the counties of Grant and Kenton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the following alteration be and the same is hereby made and established in the line between the counties of Grant and Kenton, to-wit: Beginning at the intersection of the division line between the counties of Boone and Kenton with the Grant county line; thence with the said Boone and Kenton line to its intersection with the division line between the land of T. M. Kyes and that of Moses McClure; thence with said division line to J. H. Barker's land; thence with his lines to the land of Preston Cummins, the line of which is now the Grant and Kenton county line; and that the county surveyors of Grant and Kenton counties be and they are hereby appointed commissioners to run and mark the line so hereby altered, and report the same to the county courts of said counties on or before the next June terms thereof; and those living within the bounds so cut off from Kenton county, shall pay to the sheriff of said county all taxes now levied.

Approved January 1, 1852.

CHAPTER 192.

AT ACT relating to the poll tax in Campbell county.

WHEREAS, by the fifth section of an act, entitled, an act to amend the laws in relation to the city of Newport, approved March 6, 1850, said city was exempted from county poll or capitation tax; and whereas, by an act, approved December 16, 1850, entitled, an act to repeal the 5th section of an act to amend the laws in relation to the city of Newport, approved March 6, 1850, said fifth section was repealed, and doubts exist whether said city is now exempt from, or chargeable with poll tax. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all acts and parts of acts repealed by the fifth section of an act, entitled, an act to amend the laws in relation to the city of Newport, approved March 6, 1850, be and the same are hereby revived and declared to be in full force, as though said recited acts had never passed.

Approved January 1, 1852.

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CHAPTER 193.

AN ACT changing part of the line between Shelby and Oldham counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the county line between the counties of Shelby and Oldham shall be so changed as to include in the county of Oldham all that part of the county of Shelby lying between the present line of said counties and the following described line, to-wit: beginning at a point in said line, at the mouth of Caney ran, on the land of W. W. Taylor, and running thence on a straight line to a point on the Shelbyville and Bedford road on the land of J. W. Berry, including said Berry in Oldham county, and running thence to a point where the present line between said counties crosses said road; and said territory, so taken from the county of Shelby and attached to Oldham county, shall belong to that district in Oldham county to which it is immediately contiguous.

Approved January 1, 1852.

CHAPTER 194.

AN ACT for the benefit of Robert Butler, of Simpson county.

WHEREAS, it is represented to this general assembly of the commonwealth of Kentucky, that Robert Butler was fined, by the circuit court of Simpson county, twenty dollars, which fine governor Helm remitted; and whereas, it is further represented that the said Robert Butler, before he had knowledge that said fine had been remitted, paid the same to the sheriff of Simpson county, which sum said sheriff had paid into the public treasury. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the auditor of public accounts be and he is hereby directed to issue his warrant on the treasury, in favor of said Robert Butler, for the sum of twenty dollars, to be paid out of any moneys not otherwise appropriated.

Approved January 1, 1852.

CHAPTER 195.

AN ACT better to define the boundary lines of Todd county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county surveyer of Todd county, together with the surveyor of Muhlenburg county, be and they are hereby authorized to run and re-mark the dividing line between the counties of Todd and Muhlenburg; and the expenses of said survey shall be paid by said counties jointly.

§ 2. That so much of the line between the counties of Todd and Logan counties, as is not now plainly marked and defined, shall be run and re-marked by the surveyor of Todd county, together with the surveyor of Logan county, and the north east corner of Todd county regularly established and defined; and the expenses of said survey shall be paid by said counties jointly.

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Approved January 1, 1852.

CHAPTER 196.

AN ACT to change the line between Districts Nos. 1 and 2, in Lincoln county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Walnut-flat district, in Lincoln county, be so changed as to exclude from it Thomas Scott, James Pendleton, Cornelius Traitor, and Walter McPherson, and to include them in the Stanford district, in said county.

Approved January 1, 1852.

CHAPTER 197.

AN ACT to change the voting place in District No 4, in Henderson county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the voting place in district No. 4, in Henderson county, be and the same is hereby changed from the house of A. J. Norment to the house of A. W. Williams, in said district; and that all elections hereafter held in said district, shall be held at the place on which the said Williams now lives, unless otherwise ordered by law.

Approved January 1, 1852.

CHAPTER 198.

AN ACT to amend an act, entitled, an act to incorporate the Bank Lick Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company shall be formed, under the name, and style, and title of the Independence and Colemansville turnpike company, for the purpose of forming and maintaining an artificial road, either on the Mc-Adam or the plank road plan, from the terminus of the Bank Lick turnpike company road, one-half mile north from the town of Independence, in Kenton county, to Colemansville, in Harrison county; and that the provisions of an act of assembly, approved February 6, 1839, entitled, an act to incorporate the Bank Lick turnpike company, to construct a turnpike road from Covington to the top of Dry

Style of corporation.

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Ridge, in Kenton, except so far as the same may be found inapplicable, shall be and the same is hereby re-enacted and adopted, and made part hereof, as applicable to the company incorporated by this act, except so far as they are modified by this act; also, that if said company shall construct said road of plank, it shall not be required to be made more than ten feet wide.

Books opened.

§ 2. That books for the subscription of stock in said company shall be opened—in Independence, under the direction of Willis Hoffman, T. A. Wilson, W. W. Wilson, N. B. Stevens, and Cornelius McDonald, on the third Monday in March next, and where two or more of said commissioners can act; and at Dr. D. Fisk's, in Kenton county, on the same day, under the direction of John Ellis, John Cox, Dr. D. L. Fisk, and John D. Rich.

Capital stock.

§ 3. That the company hereby incorporated shall have full power to increase the capital stock to sixty thousand dollars, or to such an amount as may be necessary to construct said road from its commencement to Colemansville, in Harrison county.

Approved January 1, 1852.

CHAPTER 199.

AN ACT to change the time of holding the Johnson Quarterly and County Courts.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the quarterly terms of the courts of Johnson county shall hereafter be held on the first Mondays in January, April, July, and October.

§ 2. That the county court, hereafter, shall be held on the first Monday in each month, instead of the fourth Monday, as now held.

Approved January 1, 1852.

CHAPTER 201.

AN ACT to amend an act, entitled, an act to enlarge the powers of the trustees of the town of Brandenburg, approved February 18, 1851.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act, entitled, an act to enlarge the powers of the trustees of the town of Brandenburg, approved February 18, 1839, be so amended that should the people of the town of Brandenburg fail to hold an election for trustees of said town, at the time specified in said act, that it shall be lawful, and is hereby made the duty of the county court for Meade county to appoint trustees for said town, who shall hold their offices for the same time, and be invested with the same powers as though they had been elected by the qualified voters in said town.

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§ 2. That the appointment of the present trustees of said town, made by the county court of Meade county, be and the same is hereby legalized, and that their acts, so done under and by virtue of such appointment as trustees of said town, be also legalized.

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Approved January 1, 1852.

CHAPTER 202.

AN ACT to amend an act, entitled, an act to incorporate and establish the town of Fairview, in Todd and Christian counties.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of the second section of an act, entitled, an act to establish and incorporate the town of Fairview, in the counties of Todd and Christian, approved February 6, 1846, as appoints John W. Lackey, Hugh Wilkins, Wilson Shreve, John J. Lindsey, H. W. Darnell, L. T. Templeton, and William Morrow, trustees of said town, be and the same is hereby repealed; and that Fayette Smith, M. M. Ray, Henderson Wade, Hugh B. Wilkins, H. W. Darnell, John S. Lindsey, and William Morrow, be appointed their successors, with the same powers and privileges.

Trustees.

§ 2. That an election for trustees of said town shall be held on the first Saturday in March, in the year 1853, and on that day in each year thereafter; and all persons residing therein, who are by law entitled to vote for representatives in the general assembly, shall be entitled to vote for trustees of said town.

Election.

§ 3. That the first, third, fourth, and fifth sections of said act, establishing and incorporating the said town of Fairview, shall still remain in full force.

Approved January 1, 1853.

CHAPTER 203.

AN ACT to establish the line between the counties of Knox and Clay.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the line between the counties of Knox and Clay is hereby established, as follows: Beginning at the gap in the ridge between the heads of Stinking and Otter creeks; thence along the top of the dividing ridge passing between the heads of Hammond's fork of Goose creek and Buzzard creek, continuing said dividing ridge, around the head of Disappointment creek, to the head of Puncheon Camp branch; thence down said branch to its mouth in Collins' fork of Goose creek; thence, crossing Collins' fork, a due west course on a straight line to the top of the ridge at the head of Bull creek; thence with

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the top of the dividing ridge to Messer's Gap; thence with said dividing ridge to the Laurel county line.

Approved January 1, 1852.

CHAPTER 204.

AN ACT concerning the Court of Claims in Shelby county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the May term of the Shelby county court shall hereafter commence on the second Monday.

§ 2. That the court of claims in the county of Shelby shall hereafter be held at the May, instead of the October term of said court, at which term the presiding judge and justices shall be required to meet, and shall have all the powers which the court of claims now has by law.

§ 3. That the claims on the county, allowed at the last October term, as well as all claims which shall be allowed at the next May term, shall be paid out of the county levy, laid or ordered at the October term, to a sufficient amount to meet all the claims against the county, so that the levy be not increased above the sum of one dollar and fifty cents on each tithable.

Approved January 1, 1852.

CHAPTER 205.

AN ACT changing the time of holding the Quarterly Courts of the County Judge of Henry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the quarterly courts of the county judge of Henry county shall be held on the Tuesday next succeeding the first Monday in the months of March, June, September, and December of every year hereafter. And all acts and parts of acts to the contrary are hereby repealed.

Approved January 1, 1852.

CHAPTER 206.

AN ACT to change the time of holding the Perry County and Quarterly Courts.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, hereafter, the monthly county courts of Perry county shall be holden on the first Monday in each month, except in those months that a circuit court is holden in said county.

§ 2. That the quarterly courts of Perry county shall here-

after commence and be holden on the Tuesday after the first Monday in the months of March, June, September, and December.

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Approved January 1, 1852.

CHAPTER 208.

AN ACT to amend the charter of the Paris and Winchester turnpike road company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county court of Clarke shall have power to appoint some suitable and discreet person to represent and vote the stock of the county court of Clarke, in the Paris and Winchester turnpike road, at the meetings of the president, directors, and company of said road, and at elections and on other occasions, in the same manner, and under like limitations and restrictions which now apply, by law, to the owners of individual stock.

Approved January 1, 1852.

CHAPTER 209.

AN ACT for the benefit of the Sheriff of Union county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That George Parker, sheriff of the county of Union, be allowed the further time until the first day of April next to make out and return his delinquent list, and to collect and pay into the treasury the revenue tax due from said county for the year 1851: *Provided*, the securities of said sheriff, on or before the first day of February, 1852, shall appear before the judge of the county court of said county, and sign an instrument of writing consenting to the delay hereby given, and agreeing to remain bound, as though this act had not passed.

§ 2. This act shall be null and void, if, within the time prescribed above, that consent be not given as is herein required.

Approved January 1, 1852.

CHAPTER 210.

AN ACT for the benefit of Florence Academy, in Boone county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of Florence academy, in Boone county, now in office, shall go out of office at the time of the next annual election of trustees of the town of Florence.

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§ 2. At the time and place of electing trustees of the town of Florence, the voters of said town, qualified to vote for trustees of the same, shall annually elect a board of trustees of said academy, who shall, from time to time, exercise the powers conferred on the trustees of said academy by the act, approved 6th March, 1850, entitled, an act to incorporate the Cumberland presbyterian seminary of Perryville, and for other purposes.

§ 3. Should a vacancy at any time occur in the board of trustees of said academy, the remaining members of the board shall fill the same by appointment until the next election.

Approved January 1, 1852.

CHAPTER 211.

AN ACT to authorize the Clerk of the County Court of Owen to index record books A and B, in his office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county clerk for the county of Owen be and he is hereby directed to transcribe and index order book A and B of said court; and that the county court, at its next court of claims, be and they are hereby directed to make said clerk a reasonable allowance for the same, to be paid out of any moneys in the county treasury.

Approved January 1, 1852.

CHAPTER 212.

AN ACT to amend the laws relating to Georgetown.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all laws now in force, vesting the trustees of the town of Georgetown with power and authority to assess, levy, or collect a tax upon the money owned by or debts due to the citizens or residents of said town, be and the same are hereby repealed.

Approved January 1, 1852.

CHAPTER 213.

AN ACT to amend the Charter of the Shelby Railroad Company.

May not unite
with any other
road.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the Shelby railroad company to construct their road from Shelbyville to the city of Louisville, with or without intersecting the Louisville and Frankfort railroad, if the company shall deem it expedient so to do.

§ 2. That it shall be lawful for said company to extend

their road, in a south eastern direction, as far as some convenient point in the town of Harrodsburg; and in such extension, they shall have the same right to procure right of way, materials, and other necessities for the transaction of their business, and in the same manner, as is contemplated by their original charter.

§ 3. It shall be lawful for said company, from time to time, to open books for the subscription of stock in the same time, and at such places as they shall think proper, and to increase their capital stock, if necessary, to any sum not exceeding one and a half millions of dollars. Upon the application of the president and directors of said company, it shall be the duty of the county courts of Shelby, Anderson, and Mercer counties, respectively, to make orders directing the sheriffs of said counties, and other election officers, to proceed as in cases of general elections, at their several precincts, to take the sense of the qualified voters of said counties as to the propriety of subscribing stock in said company, to-wit: the county of Shelby three hundred thousand dollars; the county of Anderson fifty-three thousand dollars; and the county of Mercer one hundred and fifty-seven thousand dollars; and should a majority of those voting for the same in Shelby vote in favor of said subscription, it shall be the duty of the judge of the Shelby county court to subscribe, on the part of Shelby county, three hundred thousand dollars of stock; should a majority of those voting on the subject in Anderson county, vote in favor of said subscription, it shall be the duty of the judge of Anderson county court to subscribe, on the part of Anderson county, fifty-three thousand dollars of stock; and should a majority of those voting on the subject in Mercer vote in favor of the subscription, it shall be the duty of the judge of Mercer county court to subscribe, on the part of Mercer county, one hundred and fifty-seven thousand dollars of stock. Calls for the payment of stock so subscribed may be made at different periods from those made on individual stockholders. But the calls on the counties, so subscribing, shall be made at the same time, and in proportion to the stock by them subscribed.

§ 4. It shall be the duty of the county courts of the counties which shall vote the subscription, to make orders, levies, and direct their sheriffs, respectively, to collect a tax for the purpose of paying the same, from the taxable property in said counties, any sum not exceeding seventy-five cents on each one hundred dollars worth of property, annually, and pay the same over to the treasurer of said company, or such agent or agents as they may appoint, from time to time, until the whole subscriptions shall be paid. The sheriffs shall give to each taxpayer a certificate of the amounts by him or her, from time to time, paid, as aforesaid; which certificates shall be assignable; and any person pre-

1852.

May extend
road.

Books to be
opened.

Amount to be
taken by respec
tive counties.

County court
may make or
ders for stock ta
ken.

Sheriffs to col
lect tax.

Certificates.

1852.

sending the same to the said company in amounts equal to shares, half shares, or quarter shares, after deducting commissions for collecting the same, shall be entitled to certificates as stockholders in the company, to corresponding amounts.

Construction
of road.

§ 5. That part of the contemplated road between Shelbyville and Louisville shall first be constructed; but the road shall be extended toward Harrodsburg, through the county of Anderson, with all convenient and practicable dispatch; and no dividend shall be declared and paid to the stockholders until the road shall be completed to Harrodsburg, without the consent of a majority in interest of the stockholders in Anderson and Mercer, if the stock subscribed in those counties, by the courts and by individuals, shall bear the same proportion to the taxable property of those counties which the subscriptions in Shelby bear to the taxable property in Shelby.

Number of di-
rectors.

§ 6. Should the counties of Anderson and Mercer vote the subscription herein provided for on their parts, there shall, after the subscriptions are made, be one director of the company elected residing in Anderson county, and two in Mercer, and the whole number of directors shall be seven.

Illegal voting.

§ 7. Persons guilty of illegal voting or bribing at or in any of the elections hereby authorized, shall be liable to the same penalties denounced by law against similar offenses in general elections.

Sheriffs to be
collectors of tax

§ 8. The sheriff shall be allowed to collect the taxes, when so ordered by the county courts, in the same manner as the state revenue is collected, and shall pay the same, once within the same period, under the same pains and penalties; and they and their sureties may be proceeded against in the county courts, respectively, by motion in the name of the company.

§ 9. If the county of Shelby should not vote in favor of the subscription, it shall not be imperative on the courts of either counties to subscribe the stock and collect the same, unless the people of those counties shall have voted for the subscription after Shelby county shall have so failed.

Sheriff's com-
mission.

§ 10. The sheriffs or collector shall be allowed a commission of not exceeding one per cent., to be fixed by the courts, for their services in collecting and accounting for said taxes.

Individual
subscription.

§ 11. Should individual subscriptions be taken and secured in Shelby county exceeding two hundred thousand dollars, such excess shall be taken from the amount herein allowed to be raised by taxation in Shelby, so as to reduce the sum of three hundred thousand dollars allowed to be levied, by the amount of such excess; should individual subscriptions be taken and secured in Anderson county exceeding thirty-five thousand dollars, such excess

shall, in like manner, reduce the amount allowed to be raised by taxation in Anderson; and should individual subscriptions be taken and secured in Mercer exceeding the sum of one hundred and five thousand dollars, such excess shall, in like manner, reduce the amount allowed to be raised by taxation in Mercer.

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Approved January 1, 1852.

CHAPTER 214.

AN ACT changing the lines of Magistrates' and Constable's Districts in Harrison county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of districts No. 2 and 4, in the county of Harrison, as is hereinafter described, shall be attached to district No. 3, in said county, viz: beginning at the mouth of a branch on the south side of Licking river, immediately below the residence of the late Daniel Jackson, deceased; thence up said branch until it strikes the road leading to Armstead's ferry; thence with said road until it reaches the road leading from Claysville to the baptist meeting house; thence with said road until it reaches the top of the ridge which divides the waters of Licking river and Beaver creek; and thence along the top of said ridge until it reaches the Nicholas county line, including all those who reside between the top of said ridge and Licking river, to the original line between districts Nos. 3, 2, and 4; and those who live within said boundary shall hereafter vote in district No. 3.

Approved January 1, 1852.

CHAPTER 215.

AN ACT to establish a School District in Hancock county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an additional school district be and the same is hereby established in the county of Hancock, bounded as follows: beginning at the Breckinridge county line, where the Owensborough road crosses the same, near Henry Paul's; thence with said road to the Lewis G. Lane road, so as to include William G. Bates' old place; thence with said Lewis G. Lane's road to the mouth of James Bowling's lane, so as to include Moses Quisenbury; thence to James Newton's, son of William Newton, excluding said James; thence to David Ewing's, including him; thence to the Breckinridge county line, so as to include James Newton, Esq.; thence with the county line to the beginning. The citizens of said district are permitted to organize and keep

1852. up a common school, with all the rights guaranteed to other districts, under existing laws.

Approved January 1, 1852.

CHAPTER 217.

AN ACT for the benefit of John Betts, Jailor of Fulton county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the auditor of public accounts be and he is hereby authorized and directed to draw his warrant upon the treasurer for the sum of twenty-four dollars thirty seven cents, in favor of John Betts, jailor of the county aforesaid; and the treasurer is directed to pay the same out of any money in the treasury not otherwise appropriated.

Approved January 1, 1852.

CHAPTER 218.

AN ACT for the benefit of Samuel T. Ray.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That school district No. 34, in Marion county, be and the same is hereby so changed as to include the residence of Samuel T. Ray.

Approved January 1, 1852.

CHAPTER 219.

AN ACT for the benefit of the Sheriffs of Taylor and Cumberland counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriffs of Taylor and Cumberland counties be allowed until the first day of July, 1852, to return their delinquent lists.

Approved January 1, 1852.

CHAPTER 220.

AN ACT for the benefit of the Sheriff of Graves county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Graves county be allowed until the first day of May, 1852, to return his delinquent list for the year 1851.

Approved January 1, 1852.

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CHAPTER 221.

1852.

AN ACT for the benefit of Elizabeth Jones, as Administratrix of George Jones, deceased.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the auditor of public accounts be and he is hereby directed to draw his warrant on the treasury for the sum of forty-five dollars, in favor of Elizabeth Jones, as administratrix of George Jones, deceased, it being the amount due the said George Jones for taking in a portion of the list of taxable property for Breathitt county.

Approved January 1, 1852.

CHAPTER 222.

AN ACT incorporating the Newport and Covington Bridge Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Henry H. Mayo, Thomas L. Jones, George R. Farrons, James L. Daxon, Richard H. Hayman, Edward L. Southgate, F. A. Miller, and H. C. Gasaway, of the city of Newport; and A. Greer, M. M. Benton, John W. Stevenson, Samuel Walker, and James Southgate, of the city of Covington, be and they are hereby created a body politic and corporate, by the name and style of the Newport and Covington bridge company, for the purpose of constructing one or more permanent bridges across Licking river, from the city of Newport to the city of Covington, at such point or points as may be deemed best; and they, and those who become stockholders, as hereinafter provided, and their successors, shall continue and have perpetual succession, and, by that name and style, are hereby made capable, in law, as natural persons, to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of law or equity; and to make, annul, and use a common seal, and the same to break or alter at pleasure. They shall also have the power to purchase and hold as much real estate as will be needed for the sites of said bridge or bridges, or for the abutments, piers, toll houses, and suitable avenues leading to the same. They shall have the right to borrow money, not exceeding the capital stock hereinafter mentioned; but not to have or exercise the privilege of loaning money, or issuing bills or notes on banking principles. They shall have power to establish such by-laws, ordinances, and regulations as shall be deemed necessary for the good government of said corporation, not inconsistent with the laws and constitution of this state or the United States.

§ 2. The capital stock of said company shall consist of one thousand shares, of twenty-five dollars each, to be increased to three times that amount and number of shares, or to any amount and number of shares which may be

Corporators.

Corporate name and purpose.

Corporate powers.

Capital stock.

1852.

Opening of
books; organi-
zation of com-
pany; election of
directors; term
of office.

Annual state-
ments.

Dividends.

Management
of affairs.

Newport and
Covington may
take the whole
stock; may bor-
row money.

deemed necessary for the erection of one or more bridges, as aforesaid, by said company, not, however to exceed three times the capital stock as herein provided for, which shall be subscribed for and sold in the manner hereinafter named. The persons named as aforesaid, or a majority of them, shall cause a public advertisement to be made of the time and place of opening books for the subscription of stock, which shall be kept open until at least two hundred and fifty shares shall be subscribed; and when said two hundred and fifty shares shall be subscribed, the said persons, or a majority of them, shall advertise a meeting of the stockholders, who shall, thereupon, proceed to the election of five directors, who shall be residents of the state of Kentucky; and said directors shall elect one of their body as president; and the said president and directors shall fix what compensation the said president, and such other officers and agents as they may appoint, shall be entitled to receive. At the election of directors, each shareholder shall be entitled to one vote for each share he may own to the number of five, and one vote for every three shares over five; and said shares shall be voted in person or by written proxy. The said directors, thus elected, shall continue in office until the first Monday in June ensuing the election thereof, and until others are chosen. On the first Monday in June, in each year, the stockholders shall meet, in person or by proxies, at their office, and elect directors for the ensuing year, who shall elect a president as aforesaid. At such annual meetings, a full and fair statement of the affairs of the company shall be made out and presented to the meeting, and such dividends of the profits declared as may be deemed advisable.

§ 3. The entire business and management of the corporation shall be under the control of said board of president and directors, or a majority of them; and they shall make such calls on the shareholders, payable at such periods and places as they may deem proper, with such conditions of forfeiture for non-compliance, not exceeding the amount of stock delinquent, as they may deem right and proper. The said persons, or a majority of them, or the said directors, or a majority of them, may, from time to time, open books to receive subscriptions of stock, until the whole amount thereof be subscribed: *Provided*, that the cities of Newport and Covington, or either of them, the other refusing, shall have power to subscribe the whole or any part of said capital stock, within ninety days after the books, as aforesaid, are thus opened, to the exclusion of every individual or individuals, or other corporation; and the board of common council of said cities are hereby authorized and empowered to borrow any sum or sums of money that may be deemed necessary for that purpose, in such manner and at such times as may be deemed best, and to issue bonds

1852.

therefor at a rate of interest not exceeding ten per centum per annum, and pledge the stock of said city or cities, in said bridge or bridges, for the payment of the principal and interest of said bonds; but after the expiration of ninety days after said books shall have been opened, as aforesaid, the whole or any part of said capital stock, which has not been subscribed by said cities, may be subscribed by individuals or corporations. The said board may appoint a clerk, treasurer, and such other officers and agents as they may deem needful, and allow them such compensation as they may deem proper, and make such rules and regulations, in order to enforce a faithful discharge of their duties, as to them may seem fit. The said board may make contracts with any person or corporation touching the business or affairs of the company, and do all things needful for the erection and completion of said bridge or bridges. They may require and take such bond or other security, in their corporate name, from any person or persons they may so appoint or contract with; and in the event of the death, resignation, or vacancy of a director, or of the president, said board may supply the vacancy.

Directors may appoint other officers, and take their bonds.

Vacancy—how filled.

Sites for bridge.

§ 4. The said board shall have power to purchase and receive the conveyance of a site or sites for said bridge or bridges, abutments and piers.

Rates of tolls.

§ 5. That the president and directors shall have the right to fix the rates of toll for passing over said bridge or bridges, and to collect the same from all and every person or persons passing thereon, with their goods, carriages, and animals of every description and kind; and the rates of toll shall be posted up in some conspicuous place where the toll is demanded.

Penalty for injuring bridge; and proceedings therefor.

§ 6. If any person or persons shall willfully do any act or thing whatever, whereby the said bridge or bridges, or any part thereof, or any thing attached thereto, is injured or damaged, the said person or persons, so offending, shall each forfeit and pay three times the amount of the damage thus done or sustained, with costs of suit, recoverable before any court of competent jurisdiction, by suit in the name of said company, and shall likewise be subject to fine or imprisonment, upon an indictment of a grand jury, in any number of days, in the discretion of a petit jury; and if any person shall pass or attempt to pass such bridge or bridges without paying the toll, if there be any person present to receive the same, he or she shall forfeit and pay three times the amount of the tolls, recoverable before any justice of the peace, mayor, or police judge. And if any person or persons shall willfully set fire to said bridge or bridges, or either of them, or any part thereof, or cause the same, or either of them, to be burned, in whole or in part, such person or persons, so offending, shall be held and deemed guilty of arson, and punished accordingly.

1852.

Condemnation
of land.

§ 7. If the owners of any land necessary for the abutments, the site, or any avenue leading thereto, so as to connect the said bridge or bridges with the streets of said cities, on either side of said river, shall object to sell said land, at such price as the board may think reasonable, it shall be lawful for said board to apply to the mayor of the city of Newport, should the land be situated in the city of Newport, or to the mayor of the city of Covington, if situated in the city of Covington, for a writ of *ad quod damnum* to issue, and which may be issued, directed to the marshal of the city in which the land may be situated, requiring him to summon a jury of freeholders of the city, who shall be disinterested; and said marshal shall have power to supply, by summons, other persons to act as jurors, if needed, qualified as aforesaid; and the said jurors shall be sworn by the said marshal, well and truly to inquire the value of the land to be condemned, and the damage thereby resulting to the owner thereof, according to the facts and evidence submitted to them by the parties. The verdict of the jury, when rendered, signed and sealed by said jury, shall be forthwith returned to said mayor, and if no legal and valid exception be taken thereto, the same shall be entered of record by him; and if, at any time within one year thereafter, the amount so assessed shall be paid, the title to the land applied for and thus condemned, shall vest in said company; and the mayor aforesaid, who shall have issued the writ, shall execute a deed of conveyance thereof, which shall pass the legal title.

Said cities may
buy out stock af-
ter ten years.

§ 8. The cities of Newport and Covington, or either of them, the other refusing to join, may, at any time after ten years, be at liberty to purchase the said bridge or bridges, by paying the original cost thereof, with six per centum interest thereon, should the stock in said company be subscribed, in part or in whole, by individuals or other corporations than said cities.

Obstruction of
navigation.

§ 9. Nothing in this act shall be so construed as to give to said company power to erect a bridge or bridges which will obstruct the free and common navigation of said Licking river.

Approved January 1, 1852.

CHAPTER 223.

AN ACT to amend an act establishing Morgantown Seminary, in Butler county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act for the benefit of the Butler seminary lands, entitled, an act to amend the act establishing the Morgantown seminary, approved March 22, 1851, be and the same is hereby so amended as to invest

the title of said lands in the trustees of said seminary, and their successors in office, in the same manner that, by said act, it was vested in said trustees; and that said trustees, and their successors in office, shall have all the privileges and rights to and concerning said lands, and all the rights, privileges, and powers granted by said act, in the same manner as said trustees had, by virtue of said act.

Approved January 1, 1852.

1852.

CHAPTER 225.

AN ACT to change Magistrates' Districts No. 1, in Crittenden county, and No. 1, in Madison county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the boundaries of magistrates' district No. 1, in Crittenden county, be and the same is hereby changed so as to run from Goings' old mill, down on Crooked creek, to the mouth of the Long branch, near the Anderson ford; thence up said branch to Madison Dean's; thence up the Salem road to the Sulphur Springs; thence up Hurricane creek to James Brice's, on the old Morganfield road.

§ 2. That the line of justices' district No. 1, in Madison county, be so changed as to run as follows: from Samuel Williams' to Lemuel Green's, including him; thence to the mouth of the Geyer road; thence to Taylor's fork of Silver creek; and thence to James A. Ballard's.

Approved January 1, 1852.

CHAPTER 226.

AN ACT to change the line of the Burlington and Taylorsport election precinct, in Boone county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the line of the Burlington and Taylorsport election precincts, in Boone county, be so changed as, instead of keeping the Anderson ferry road to Gunpowder, that the road be line from said ferry to the north-east corner of Zedariah Foster's land, on said road; thence westwardly so as to strike Joel Garnett's line; thence with said line to the old North Bend road, so as to include John J. Crigler, with all south of said Garnett's line, in the Burlington district.

Approved January 2, 1852.

1852.

CHAPTER 227.

AN ACT to incorporate the Maysville Literary Institute.

Style of corporation.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Rev. Joseph W. Warder, Rev. W. W. Gardner, Abijah Casto, Samuel S. Miner, John L. Kirk, Fred. M. Weedon, Thomas Wise, Robert W. Lane, Robert S. Power, John P. Dobyns, Eli N. Metcalfe, John McDaniel, Thomas Y. Payne, and George W. Orr are hereby constituted a body politic and corporate, by the name and style of the trustees of the "Maysville literary institute."

May hold real estate, &c.

§ 2. That the said trustees, and their successors, shall have perpetual existence, by the name and style aforesaid; shall have the power to acquire, by gift, purchase, or otherwise, any estate, real, personal, or mixed, and hold, sell, or convey the same for the benefit of said institute; to make any contracts or agreements, to sue and be sued, to plead and be impleaded, and do and perform all other acts which similar corporations may of right do, not incompatible with the laws of this state or the laws and constitution of the United States.

Election.

§ 3. That said trustees shall have power, annually, to elect from its own body a president, secretary, and treasurer, fill all vacancies occurring in the board and in said offices, appoint such professors or teachers, enact such rules and regulations for the government of the institute, as they may deem best, and confer upon those pupils they may deem worthy all such literary honors and degrees as are conferred by like institutions.

§ 4. That three-fourths of the board of trustees shall, at all times, be members of the United Baptist church, and connected with the Bracken association, so long as the said association shall hold to the doctrines now recognized by the United Baptists of Kentucky.

Rules and regulations.

§ 5. That the said trustees may adopt such regulations and by-laws for their own government as they may deem expedient, and that a majority of the trustees shall constitute a quorum for the transaction of business.

§ 6. The legislature hereby reserves the right to alter, amend, or repeal this charter.

Approved January 1, 1852.

CHAPTER 228.

AN ACT to amend the charter of the city of Lexington.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act to amend the charter of the city of Lexington, approved January 24, 1850, be so amended as to require the mayor and council of said city, hereafter, to pay of its debt, therein described, only

the sum of five thousand dollars each year; and that the residue of the sum of ten thousand dollars, required by said act to be paid annually, be appropriated to the benefit of common schools in said city; but nothing in this act shall be construed as obstructing creditors of the city in their collection of their debts.

1852.

Approved January 2, 1852.

CHAPTER 229.

AN AOT to change the time of holding the Garrard County and Quarterly Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, the terms of the Garrard county court shall commence and be held on the first Monday in each month; and the judge of the county court shall commence and hold the January terms of his quarterly courts on the second Monday in January in each year, instead of the third Monday, as now provided by law.

Approved January 2, 1852.

CHAPTER 230.

AN AOT to provide for the erection of a suitable monument over the grave of Col. Thomas Dollerhide.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sum of seventy-five dollars be and the same is hereby appropriated for the erection of a suitable monument over the grave of Col. Thomas Dollerhide, late a senator from Pulaski county; and that Joel W. Sallee, of said county, Isaac N. Shepherd, of Wayne county, and George R. McKee, of Garrard county, be authorized to contract for the erection of said monument, with a suitable inscription; and upon their certificate to the auditor of public accounts, that the work has been properly done, he is hereby directed to issue his warrant upon the treasurer, for the above sum, to the person producing said certificate, to be paid out of any money in the treasury not otherwise appropriated.

Approved January 2, 1852.

CHAPTER 231.

AN AOT to amend an act, entitled, "an act incorporating the Crab Orchard and Crews' Knob Turnpike Road Company."

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the eleventh section of an act, entitled, an act incorporating the Crab Orchard and Crews'

Amendment of
chapter.

1852.

J. O. Bryant.

Knob turnpike road company, approved March 6, 1850, be amended so as to read as follows: that this act may be altered or amended by the general assembly of the commonwealth of Kentucky, but the same shall not be so altered or amended as to divest Jonathan O. Bryant of the rights and privileges hereby granted, for and during the period of twenty years, from the completion of said contemplated road one mile from Crab Orchard.

Road to be
closed up.

§ 2. That when one mile of said road from Crab Orchard is completed, and received by the county court of Lincoln county, said Bryant may be permitted to close up the present Somerset and Crab Orchard road, from a point on the same north of his present residence: *Provided, however,* that he opens, or causes to be opened and kept in good repair, a road at least thirty feet wide, from said point to the end of the one mile of turnpike aforesaid.

Books opened.

§ 3. That the said Bryant may open books for the subscription of stock in said road, and the stockholders may elect two directors, who shall, in conjunction with said Bryant, control and manage the erection of said road and its concerns, for the period of twenty years from its completion, as aforesaid; at the end of said term of twenty years, the said one mile of road is to be surrendered to the commonwealth of Kentucky.

Approved January 2, 1852.

CHAPTER 234.

AN ACT to change certain Districts and Precincts in Lawrence county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the following shall be the dividing line between the justices' and constables' districts and election precincts Nos. 3 and 5, in Lawrence county, to-wit: beginning at the point where the road crosses Big Blain creek near the residence of T. Carter; thence with the dividing ridge between the waters of Daniel's creek and Twin Bottom branch, to the dividing ridge between Irish creek and the waters of the dry fork of Little Sandy river; thence to the head of Cherokee, at the Cherokee gap, in the line between districts Nos. 3 and 4.

§ 2. That the line between the justices' and constables' districts and election precincts Nos. 3 and 4, in said county, shall be as follows, to-wit: beginning at the Cherokee gap; thence with the dividing ridge between Blain and Little Sandy, to the gap of the Blain Fall and Cain's creek; thence down Blain Fall to its mouth, including all the inhabitants on said creek; and thence with the county line to the line of district No. 3; and the place of voting in district No. 3 to be at the house of A. Bramer.

Approved January 2, 1852.

LAWS OF KENTUCKY.

509

CHAPTER 235.

1852.

AN AOT for the benefit of the town of Princeton.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the board of trustees for the town of Princeton, in Caldwell county, shall have power and authority to grant coffee house licenses, in said town, to any *bona fide* keeper of such house or houses, upon such keeper or keepers paying to said trustees a tax for such license, of not less than fifty nor more than one hundred dollars, at the option of said trustees. And when such sum as shall be determined on by said trustees shall be paid to them by any person who desires to open and keep a coffee house in said town, such person shall be entitled to a license for that purpose, signed by the chairman of the board, and attested by its clerk; which shall continue in force for one year from the day the money is paid to said board or its treasurer.

§ 2. That the sum of twenty dollars of the tax mentioned in the previous section, shall be forthwith paid over, upon its receipt by said trustees, to the clerk of the Caldwell county court, to be accounted for by him as other state revenue collected by him; and the residue thereof shall be applied by said trustees to the improvement of the streets of the town of Princeton.

Approved January 2, 1852.

CHAPTER 236.

AN AOT to establish an April and July term of the Breckinridge county court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, the presiding judge of the Breckinridge county court, in addition to the terms now required by law, shall hold a county court in the months of April and July, in each year, on the third Mondays in said months, for the transaction of business properly cognizable in county courts.

Approved January 2, 1852.

CHAPTER 237.

AN AOT for the benefit of James E. Gardner, of Butler county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James E. Gardner, of Butler county, during his continuance in office as justice of the peace of said county, be authorized to solemnize the rites of matrimony, in said county, under the same rules and restrictions that ministers of the gospel are authorized to solemnize said rites.

Approved January 2, 1852.

LAWS OF KENTUCKY.

1852.

CHAPTER 238.

AN AOT to change the place of voting from the house of Sarah Bates to the mouth of Mill Stone, in Letcher county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the magistrate's district and election precinct, in Letcher county, which is now held at Sarah Bates' house, be and the same is hereby removed to the mouth of Mill Stone, in said district and county.

Approved January 2, 1852.

CHAPTER 239.

AN AOT to change the time of holding the quarterly terms of the county Judge of Daviess county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the time of holding the quarterly terms of the county judge of Daviess county be and the same is hereby so changed, that, hereafter, said judge shall hold said courts on the third Mondays in February, May, August, and November, instead of the times now prescribed by law.

Approved January 2, 1852.

CHAPTER 240.

AN AOT for the benefit of the Sheriffs of Todd, Pulaski, and Green counties.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That William Hearn, sheriff of Todd county, and Thomas Surber, sheriff of Pulaski county, be each allowed until the first day of March, 1852, to pay into the treasury the balance of revenue due from their respective counties, and return their delinquent lists: *Provided,* the sureties of said sheriffs shall, in their respective county courts, consent thereto.

§ 2. That Coleman Carter, sheriff of Green county, be allowed until the first day of March, 1852, to return his delinquent lists for the years 1849, 1850, and 1851; and upon the return of said lists for the years 1849 and 1850, the auditor shall draw his warrant on the treasury, in favor of said Carter, for the amounts thereof.

Approved January 2, 1852.

CHAPTER 241.

AN AOT to extend the town limits of Shepherdsville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the limits of the town of Shepherdsville,

in Bullitt county, be so extended as to include the house and lot now in the occupancy of Lloyd Friddle, and the same deeded by Quirey and Tyler to George W. Miles.

1852.

Approved January 2, 1852.

CHAPTER 242.

AN ACT to incorporate the Cynthiana Female Academy.

WHEREAS, it is represented that a number of the citizens in and about Cynthiana, for the purpose of contributing to female education, are desirous to purchase a lot in or near said town for the establishment of a female academy. Therefore.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Lewis Perrin, W. T. Redman, H. Roland, L. Desha, and J. W. McIntosh be and they are hereby constituted a body politic and corporate, to be known by the name of the trustees of the Cynthiana female academy, and, by that name, shall have perpetual succession, and a common seal, with power to change the same at pleasure, and, by said name, may sue and be sued, plead and be impleaded in any court of law or equity; and shall be capable, in law, of purchasing and holding to them and their successors, any lands, tenements, money, goods, and chattels of any kind whatever, which shall be purchased, given, granted, or devised for the use of said academy, and may sell, dispose of, and convey the same in any manner which may seem most conducive to the interest of said institution: *Provided*, that they shall not at any time hold real and personal estate of greater value than one hundred thousand dollars.

Corporators.

Corporate name and powers.

§ 2. The trustees shall have power, from time to time, to establish such by-laws, rules, and ordinances, not inconsistent with the constitution and laws of this state, as they shall deem necessary for the government of said academy. A majority of all the trustees shall concur in the election of a president, treasurer, and clerk, and of professors and tutors to said institution; and upon the disqualification, death, resignation, or removal from office of any of the trustees, professors, tutors, or officers of said academy, the board of trustees shall fill the vacancy by election or appointment. The president, at the request of any three of the board, may call a meeting of the trustees, when cases of urgency require it. A majority of the trustees elected shall constitute a quorum to do business, and may decide any question, resolution, or appointment, not otherwise provided in this act; but in all contracts for the purchase or alienation of property, a majority of the trustees elected must concur. The clerk and all officers shall be subject to the direction of the board.

May enact by-laws, &c.

Election of officers.

Vacancies—how filled.

1852.

Election, term
of office, and eli-
gibility of trust-
ees.

§ 3. That an election for trustees of said institution shall be held annually; and it shall be the duty of the board of trustees to appoint the time and place of holding said election, at which election two of the trustees shall preside. The trustees thus elected shall continue in office until their successors shall be duly elected. Upon the failure of the trustees to hold an election at any time, the persons holding a majority of stock in said institution, concurring, may hold an election for trustees. No person shall be eligible to the appointment of trustee unless he shall be owner of one share at least of stock in said institution, at least six months previous to said election. Stockholders shall be entitled to one vote for every fifty dollars worth of stock he may hold, and may vote, in person or by proxy in writing, upon all questions relating to said institution. The stock may be negotiated and assigned upon the books of the trustees, and the assignees be entitled to all the privileges of stockholders.

Stock to be
transferable.

Approved January 2, 1852.

CHAPTER 243.

AN ACT regulating the time of holding Magistrates' Courts in Barren county.

Times of hold-
ing courts.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of March, 1852, the justices of the peace in Barren county shall hold their respective courts, in the several districts in said county, as follows: in Sanders' district, or No. 9, on the Tuesdays after the first and third Mondays in February, May, August, and November; in Tracy district, or No. 2, on the Wednesdays after the first and third Mondays in February, May, August, and November; in Rocky hill district, or No. 3, on the Thursdays after the first and third Mondays in February, May, August, and November; in Knob district, or No. 4, on the Fridays after the first and third Mondays in February, May, August, and November; in Goosehorn district, or No. 5, on the Saturdays after the first and third Mondays in February, May, August, and November; in Glasgow district, or No. 1, on the Tuesdays after the second and fourth Mondays in February, May, August, and November; in Sartin's district, or No. 8, on the Wednesdays after the second and fourth Mondays in February, May, August, and November; in Edmonton district, or No. 7, on the Thursdays after the second and fourth Mondays in February, May, August, and November; and in Lafayette district, or No. 6, on the Fridays after the second and fourth Mondays in February, May, August, and November.

§ 2. That this act shall not be so construed as to repeal

any act or acts heretofore passed, except so much of any act or acts as prescribes the time of holding magistrates' courts in Barren county.

1852.

Refers only to Barren county.

Approved January 2, 1852.

CHAPTER 244.

AN ACT to amend the law in relation to working the public highways in the county of Mason.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That so much of an act to amend the law in relation to working the public highways in the county of Mason, as authorizes and directs the supervisor, in default of the work being done pursuant to and within the time required by law, to list the tax due by said defaulters, and hand the same over to a constable for collection, be and the same is hereby repealed.

Part of former act repealed.

§ 2. That hereafter, when any person or persons shall fail to pay the tax assessed against, or due from him or them, or to work out the same when required, according to law, said supervisor shall return to the clerk of the county court of Mason county a list of all such defaulters or delinquents, by the third Monday in November in every year, whose duty it shall be to place a certified copy thereof in the hands of the sheriff of said county, who shall collect the several amounts due thereon as he now collects the revenue tax and county levy, and pay over the same, when collected, to the clerk of the said county court, retaining three per cent. thereof for collecting the same.

Supervisors to return lists of defaulters.

Duties of the county clerk. Sheriff to collect.

His compensation.

§ 3. That it shall be the duty of said clerk to pay over to the supervisors of the several districts, such sums as may have been so collected of and from the delinquents residing therein, retaining two and a half per cent. thereof for disbursing the same.

Clerk to pay over; his compensation.

§ 4. That any supervisor who shall fail to return to the clerk of said county court his delinquent list, in conformity with the provisions of this act, shall forfeit and pay a sum not less than fifteen nor more than thirty dollars, in the discretion of a jury, to be recovered on the presentment of a grand jury, to be paid to said county court clerk for the benefit of said county.

Penalty.

Approved January 2, 1852.

CHAPTER 245.

AN ACT to amend the charter of the town of Danville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the passage of this act, it shall be unlawful for any person, within the limits of

Licenses to sell liquor.

1852.

the town of Danville, to sell any brandies, wines, cordials, or other spirituous liquors, to any person or persons, in quantities less at one time than three gallons, without first obtaining a license for that purpose from the board of trustees of said town.

Penalty for
selling without
license.

§ 2. Every person or persons so offending, shall be subject to a fine of fifty dollars for each and every such offense, recoverable by warrant before the police judge of said town, or any justice of the peace of Boyle county.

Licenses to be
paid for.

§ 3. The person or persons to whom such license may be granted, before availing himself thereof, shall first pay to the clerk of the circuit or county court of Boyle county the same tax that is now required by law for such privilege, to be by them accounted for as other taxes by them received on law process, deeds, &c.

Trustees may
revoke licenses.

§ 4. That said trustees, at their discretion, may revoke the license so issued to any person or persons; and from the time of notice thereof, it shall not be lawful for such person or persons to sell or vend spirits, &c., under said license, under the same penalty as above prescribed.

Approved January 2, 1852.

CHAPTER 247.

AN ACT for the benefit of the Sheriff of Kenton county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Kenton county shall have until the third Monday in April, 1852, to return a complete delinquent list to said county court.

Approved January 2, 1852.

CHAPTER 248.

AN ACT for the benefit of the Sheriff of Oldham county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James M. Speer, sheriff of Oldham county, be allowed further time until the March county court, in the year 1852, to return to the Oldham county court his delinquent list of revenue; and the auditor is hereby directed to pay to said sheriff the amount of taxes paid by him to said auditor for said delinquents, when said list shall have been returned to said county court.

Approved January 2, 1852.

CHAPTER 249.

AN ACT for the benefit of Common Schools in Estill county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Samuel J. Vaughn, of Estill coun-

ty, be and he is hereby appointed sole commissioner to collect all sums of money that are now or may hereafter be due the trustees of the Estill seminary, on account of the sales of vacant lands granted by the commonwealth for the use of said seminary, or moneys that may be due them for fines and forfeitures relinquished by the legislature to the use of said institution. To effect the object of this act, said commissioner is authorized to sue any person or corporation holding any part of said moneys, and collect them by law.

§ 2. That out of the money thus collected, it shall be the duty of the commissioner to pay off all legal demands against said seminary; and after they are paid, he shall pay over the balance collected to the common school commissioners for Estill county, whose duty it shall be to add it to the amount of the common school fund drawn by them for Estill county, and divide it out, *pro rata*, among the common schools of said county.

§ 3. That said commissioner shall take an oath faithfully to perform the duties of his office. He shall execute bond before the Estill county court, in such penalty as the court may direct; and, for his services, he shall receive five per cent. on all sums collected. Should he refuse to act, or die, or whenever a vacancy may occur, it shall be the duty of the Estill county court to appoint another commissioner.

1852.

His duties.

Demands to be paid.

He shall take an oath; his compensation.

Vacancies—how filled.

Approved January 2, 1852.

CHAPTER 250.

AN ACT establishing an additional Magistrates' and Constable's district in Hancock county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there is hereby established, in the county of Hancock, an additional district for the election of magistrates and a constable, to be known as district No. 4, with the following boundary, viz: beginning on the Ohio river, where the road from Hawesville to Cloverport leaves the river; thence a straight line to the Hartford road, at Palestine, to include the Palestine farm; thence with the Hartford road to the Lewis Lane road; thence with said road to the old Yellow Banks road; thence with the Yellow Banks road to the Breckinridge county line; thence with the Breckinridge county line to the Ohio river; thence down said river to the beginning.

§ 2. That the first election of officers in said district shall be held at Fairview school house, near George M. Younger's, on the first Tuesday in August, 1852, at which time and place a poll shall be opened for the purpose of selecting a place of voting; and the place in said district which

Additional districts; boundaries.

First election.

1852.

Officers of
election to be
appointed.

shall receive the greatest number of votes, shall be established as the voting place at the succeeding elections.

§ 3. That the county court of said county, at the July term thereof, shall appoint officers to hold said election, according to law.

Approved January 2, 1852.

CHAPTER 251.

AN ACT to establish Tobacco Inspections in the city of Louisville.

Inspections in
Louisville.

Description of
building.

Established by
city council.

Regulations.

Scales.

Hands.

Record book.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That inspections of leaf tobacco, in hogsheads, may be established in the city of Louisville; and warehouses for the inspection, storage, and sale of tobacco, shall be built of brick or stone, with solid floors of plank or timber, and the roof of shingles, tin, copper, or other substantial and safe roofing. The house shall be so constructed as to keep safely and securely, and guard against fire and the weather, as far as practicable, all tobacco stored therein; and such houses shall at all times be kept in good repair and condition for receiving, storing, inspecting, selling, and delivering tobacco in hogsheads. Such warehouses shall be hereafter established by the city council; but such owner or owners shall have the right to close or discontinue his warehouse at pleasure, after having given a written notice to said council of such intention sixty days before the time fixed by him for closing said tobacco warehouse.

§ 2. Such warehouses shall be used for the storing, &c., of tobacco, as aforesaid, and shall be kept open, and in a proper condition, with the necessary conveniences to receive, inspect, sell, and deliver hogsheads of tobacco. The proprietor of each tobacco warehouse shall provide and continually keep in the same, in good order, scales of sufficient size and strength to weigh at least one ton weight, which shall be tested at least once in every year, and oftener if required, by the standard of weights and measures; and shall provide one or more coopers and able-bodied men, to do the coopering, and to handle tobacco stored, inspected, and sold in such warehouse; and to do all things needful in receiving, storing, inspecting, selling, coopering, and delivering hogsheads of tobacco. He shall likewise provide and keep in his warehouse, a well bound book, of proper size, in which shall be entered the marks, numbers, gross, tare, and net weights of each hogshead of tobacco received at his warehouse; when received; when inspected; when sold; and when delivered; the owner or planter's name; the name of the purchaser; the price and fees of each hogshead inspected and sold at such warehouse. He shall make out bills for the planter, and weigh and mark

each hogshead of tobacco, and, if required to do so, collect the money arising from sales, for the planter, and pay the same over to him.

§ 3. No proprietor, nor any of his agents, shall, directly or indirectly, for himself or themselves, be engaged in buying or selling leaf tobacco in the city of Louisville. Each proprietor of any tobacco warehouse, within said city, shall be liable for the good conduct of his agents or servants in said warehouse, and for the safe keeping and delivery of tobacco stored in such warehouse, except in case of fire or unavoidable accidents; and shall deliver all tobacco to the owner, on the sidewalk, within a reasonable time after demand at the warehouse and presentation of the receipt thereof to one of the proprietors of the house, or his clerk, and tender of the fees due the warehouse upon such tobacco.

Certain persons not to deal in tobacco.

§ 4. No fire shall be made in any tobacco warehouse in said city, except in the clerk's office or business rooms, and care shall be taken that the fire place, or stove and pipe, shall be arranged to guard against the building taking fire.

No fire in warehouses.

§ 5. That the proprietors of each warehouse shall enter into bond, with good security, to be approved by the general council of said city, payable to the commonwealth of Kentucky, in the penal sum of two thousand dollars, well and truly to do, perform, and comply with all the provisions of this act; and the injured party, if any, may sue thereon and recover, as in other cases; and any such proprietor shall, also, pay a fine not exceeding one hundred dollars unto the commonwealth, to be recovered in any court having jurisdiction in such cases, for any failure, refusal, or neglect of the duties herein required.

Proprietor's bond.

§ 6. That in the month of November, 1852, and every two years thereafter, the general council of the city of Louisville shall elect three competent judges of tobacco, who, after the election, shall be required to be residents of said city, as inspectors of leaf tobacco for the city of Louisville, who shall hold their offices for two years, and until their successors are elected and qualified. They may be removed from office at any time by the mayor and council, for good cause; and inability to act, or removal from the city, shall be a just cause for removal; and the general council may fill any vacancy in said office, arising from any cause. No inspector of tobacco shall be, directly or indirectly, interested in any tobacco warehouse within said city, nor shall he in any way whatever be concerned or interested in purchasing or selling leaf tobacco by the hogshead, or loose in the hand, in said city of Louisville, during his continuance in office. Any such act shall be a just cause of removal from office, and the mayor and council shall remove any inspector found guilty of so doing. The

Election of inspectors; removal; vacancy.

Inspectors not to deal in tobacco; cause of removal; attendance; annual statement.

1852.

inspectors shall attend, each day, to the inspection of tobacco, when called upon to do so, from eight o'clock, A. M., to five o'clock, P. M., and shall, in the month of January in each year, render to the mayor and council of Louisville a true account, in writing, under oath, of the number of hogsheads of tobacco inspected by them during the previous year, at each warehouse. They shall likewise, in their annual report, state the condition of each warehouse within the city, the quantity each is capable of holding, and such suggestions as they may think will promote the inspection and sale of leaf tobacco in said city.

Duties of inspectors.

§ 7. That said inspectors shall superintend the weighing of each hogshead of tobacco, after they inspect it, and see that the empty casks are properly weighed, and that the proper number and weight, gross, tare, and net, is marked on one of the heads of the same. They shall cause the proprietor to have each hogshead of tobacco uncased; the inspectors shall then break it in different places, not exceeding three times, unless they deem it necessary to break it oftener, and shall take from each hogshead samples of the quality thereof. If two inspectors shall agree that any hogshead of tobacco inspected by them is good, sound, well conditioned, merchantable, and clear of trash, they shall mark it "passed;" if they consider it not of such quality they shall mark it "refused;" and each hogshead inspected by them shall be marked on one of the heads "passed," or "refused," as the case may be, and shall be so designated in the note to be issued for the same. Each inspector shall receive for his services twenty cents for each hogshead so inspected by him, to be paid him by the proprietor of the warehouse.

Fees.

§ 8. The fees to be collected by the proprietor or owner of each warehouse shall be as follows: one dollar and fifteen cents for receiving, weighing, coopering, marking, and making out bills of sale, &c., fifty cents storage, and sixty cents for inspection, payable to the inspectors; of this amount the planter or owner shall pay one dollar, and the purchaser or holder of the note, payable upon the execution and delivery of said note by the proprietor, one dollar and twenty-five cents.

Receipt for tobacco.

§ 9. The following shall be the form of the note to be issued and signed by the three inspectors for each hogshead of leaf tobacco inspected and weighed by them:

STATE OF KENTUCKY, CITY OF LOUISVILLE.

We have, this day of 18 , inspected and weighed, for , one hogshead of leaf tobacco, No. , which we have (passed or refused, as the case may be;) gross , tare , net , price . Witness our hand and seal the day above written. [SEAL.]

The note shall be printed; and under the names of the inspectors shall be the following receipt, also printed, and.

to be signed by the owner or proprietor of the warehouse, or by some person authorized by him: "Received of the above hogshead, to be delivered to him, or his assigns, when demanded at (my or our) warehouse in Louisville, upon the presentation of this note and receipt, and upon payment of warehouse fees, day of 18 ." Said note and receipt shall be assignable by indorsement or delivery, and such assignment shall pass the title to the tobacco therein described.

1852.

§ 10. The inspectors shall see that the proper entries are made upon the note book to be kept as herein provided for; and that hogsheads of tobacco are properly stored and cared for; and, before entering upon the duties of their offices, shall take an oath, before a justice of the peace for Jefferson county, well, truly, and faithfully, and without partiality to discharge the duties of the office of tobacco inspector of Louisville, as herein directed; a certificate of said oath shall be filed with the auditor of the city. Each inspector shall, before he enters upon the duties of said office, enter into bond with good security, to be approved by the general council of Louisville, payable to the commonwealth of Kentucky, in the penal sum of two thousand dollars, conditioned for the true and faithful performance of his duty, according to the provisions of this act, which bond may be sued upon, and recovery had, as in other cases; and each inspector shall be subject to a fine not exceeding one hundred dollars, to be recovered by warrant before any court having jurisdiction in such cases, at the instance of any person so aggrieved, in the name of the commonwealth, for a failure, refusal, or neglect of any of the duties or obligations required by law.

Records; oath; bond.

§ 11. No planter or owner of tobacco shall be compelled to take it to any warehouse in said city, or to have the same inspected, or sold at auction, or otherwise; and if offered at auction in either of said warehouses, the owner may refuse to take the price at which the same was cried off.

Planter not compelled to warehouse his tobacco.

§ 12. No owner or proprietor of any established tobacco warehouse in the city of Louisville shall sell, or suffer to be sold, at public outcry in said warehouse, by sample, any tobacco in hogsheads, unless said tobacco has been inspected by two of the inspectors of tobacco in said city; and for every such offense, shall be subject to a fine not exceeding one hundred dollars, to be recovered in the name of the commonwealth, before any court of competent jurisdiction, at the instance of any person aggrieved.

No tobacco to be sold at auction unless inspected.

Penalty.

§ 13. If any hogshead of tobacco shall remain in any warehouse twelve months, the owner or proprietor of the warehouse shall be entitled to one dollar extra storage, and at the same rate for the time it remains over one year; and should tobacco be stored in any warehouse, which re-

Rates of storage

1852.

mains unsold for more than a year, and should be taken away without inspection, the owners of any such tobacco shall pay the proprietor or owner of the warehouse, storage of one dollar for the first year, and the like sum for each subsequent year the same remains in storage. A lien is hereby given to the proprietors or owners of any established warehouse, and to the inspectors for their fees, upon all tobacco stored or sold therein.

Samples.

No charge for
selling at auc-
tion.

§ 14. It shall be the duty of the inspectors, when requested by the owner or purchaser of tobacco, to seal the sample, as made by them, with marks and numbers corresponding with those upon the hogshead from which it was taken. It shall be the duty of the inspectors to sell the tobacco at public outcry, if so desired by the owner or planter, at the regularly established tobacco warehouses in said city, free of charge.

Approved January 2, 1852.

CHAPTER 232.

AN ACT to amend an act, entitled, an act for the benefit of the heirs of James and Matthew Wakefield.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful, upon any petition heretofore filed, or which may be hereafter filed in any of the circuit courts of this commonwealth having jurisdiction of the same, by any purchaser or purchasers of any of the tracts of land lying in the counties of Nelson and Spencer, belonging to James Heady, deceased, as set forth in the act to which this is an amendment, for James Wakefield and Matthew Wakefield to take proof and file the same in said suit or suits, commenced or to be commenced, by said purchaser or purchasers, for the purpose of perfecting his or her title to any tract of land so purchased, as aforesaid, proving that they and each of them had paid and satisfied their and each of their children, who are also the children of Elizabeth Wakefield, deceased, and Rebecca Wakefield, deceased, in full for their and each of their undivided interests in said tracts of land; and upon such proof being made by two or more competent witnesses, the circuit courts in which said suit or suits is now pending, or may hereafter be commenced, be and they are hereby empowered and directed to render decree against any and all of the children of said James Wakefield and Matthew Wakefield, if living, and if dead, then against their heirs, for the conveyance of their and each of their undivided interests in said tracts of land hereinbefore set forth; which deed or deeds, when executed in conformity to said decree or decrees, shall be effectual to vest the title of said children of James and Matthew Wakefield in said lands of James Heady,

deceased, descended to them, in the purchaser or purchasers thereof.

1852.

Approved January 2, 1852.

CHAPTER 253.

AN ACT to charter Brooksville Lodge, No. 154, of Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of Brooksville lodge, No. 154, of free and accepted masons, in Bracken county, be and they are hereby created a body politic and corporate by the name and style of Brooksville lodge, No. 154, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, of suing and being sued, of purchasing and holding all such real and personal estate as may be required for the use of said lodge for their ordinary purposes, and for the use of a semi-nary; to receive all necessary conveyances; to sell, dispose of, and convey all such real and personal estate as they may now have or hereafter acquire: *Provided*, the amount vested in real estate shall not at any time exceed ten thousand dollars.

Corporators.

Corporate name and powers.

§ 2. That the management of the concerns of said corporation shall be and the same is hereby confided to the master and wardens of said lodge, for the time being, and their successors in office, as trustees thereof, who, or a majority of whom, shall have full power to make all contracts pertaining to the real or personal estate of said lodge, under their common seal; and service of process or notice on any of said trustees shall be sufficient notice to said corporators.

Trustees.

§ 3. That the general assembly shall have the right to repeal or amend this charter at pleasure.

Repealing power reserved.

Approved January 2, 1852.

CHAPTER 255.

AN ACT for the benefit of George F. Hickman.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the estate of Samuel Hamilton, a free man of color, who died recently in the county of Mason, be and the same is hereby relieved from escheat, in consequence of the failure of heirs; and said estate shall vest in George F. Hickman, the former owner of the said Samuel Hamilton, subject to the payment of the debts of the deceased, and the claims of distributees, if any such shall hereafter present themselves.

Approved January 2, 1852.

1852.

CHAPTER 256.

AN ACT for the benefit of William Richards, of Bath county.

WHEREAS, it appears that about two years since, William Richards, of Bath county, purchased in the state of Virginia, for his own use, a negro woman and two children, and brought the same to this state; and it further appears that the pecuniary condition of said Richards renders it necessary for him to sell said negroes. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said William Richards be and he is hereby authorized to sell said negro woman and two children, without incurring any penalty therefor.

Approved January 2, 1852.

CHAPTER 257.

AN ACT to incorporate the Coal Haven Coal Mining Company, of Daviess county.

Corporators.

Corporate name and powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Alexander B. Barret, William T. Barret, Edmund Robertson, David B. Harris, J. M. Spicer, John T. Bunch, and their associates and successors, are hereby created a body politic and corporate; by the name and style of the "Coal Haven coal mining company;" and, by that name, shall have perpetual succession, may contract and be contracted with, sue and be sued, plead and be impleaded, in all courts and places; and, by that name, are hereby made able and capable, in law, to take, purchase, hold, and possess lands, tenements, goods, chattels, and effects, such as may be necessary for the purpose of the said corporation, and the same to sell, grant, demise, alien, and dispose of at pleasure; have a common seal, and alter the same at pleasure; may make all necessary by-laws for the government of said company, not inconsistent with the constitution and laws of this state or of the United States.

Manager.

§ 2. That said company shall have power to appoint any one or more of its members, or person or persons to manage, control, and direct the business of said company, according to the by-laws, rules, and regulations of said company, adopted by a majority thereof.

May hold real estate.

§ 3. That said company may hold real estate, by lease or purchase, and such personal property as they may deem necessary or proper for carrying on the mining of coal in Daviess county, and transporting the same to any market.

May construct railroads.

§ 4. That, for the purpose of transporting coal to market, said company shall have power to hold and construct not exceeding two main railroads, with single or double tracks, as they may deem best, starting at or near their coal mines

in Daviess county, and running the most feasible and practicable route to a point at low water mark on the Ohio river, with as many collateral or side railroads leading from the mouth of their pits or entries, to intersect said main railroad at the most feasible point, as may be deemed necessary by said company; and shall have power to keep said roads up, by repairing or re-building them; and said company, their successors or their agents, are hereby empowered to take possession of and acquire right of way over, not exceeding one hundred feet in width, the whole length or route of said roads, with sufficient grounds at or near the commencement of said roads, at the mines and termination at the river for depots and other buildings, yards, landings, not exceeding three acres at each end; and not to interfere with the buildings of the owner of the land, to be taken and laid out as said company may select. Said company shall pay as compensation for said land, the amount awarded by a jury of twelve housekeepers of said county, summoned by the sheriff or coroner of said county, upon a warrant from the judge of the circuit court, or the judge of the county court, or any justice of the peace of said county; and said warrant shall issue upon the application of either party: *Provided*, the said parties cannot agree upon the amount of said compensation; the jury shall take into consideration the damage done the owner of said land, and, also, the benefit arising by reason of the construction of said road, as well as any benefit said owner or owners of said land may or have derived from said company.

§ 5. That said company shall cause a book to be opened, subject at all times to the inspection of any member of said company, which shall contain the names of all the members, and the estimated share of stock which each member may now or hereafter own; and the said shares may be transferred on said books, in the manner to be prescribed in the by-laws of said company; and each member shall share the profits, and be liable for the losses of said company, to the extent of his stock owned in said company.

§ 6. That the capital stock of said company shall be fifty thousand dollars, capable of being increased to the sum of two hundred and fifty thousand dollars, if it shall be deemed hereafter necessary and proper by said company. That the capital stock shall be divided into shares of one hundred dollars each, to be subscribed and paid for, and held by the members, agreeably to such rules and regulations as the said company may direct in their by-laws or ordinances.

§ 7. That the power to alter, amend, or repeal this charter is hereby retained by the legislature; and nothing in this charter shall be so construed as to prevent any other

1852.

Lands may be
condemned.

Book opened.

Shares trans-
ferable.

Capital stock.

Repealing
power reserved.

1852.

company or individual from crossing the tracks of said road, or excluding them from landing at the Ohio river.

Approved January 2, 1852.

CHAPTER 258.

AN ACT to incorporate the Coal Haven Manufacturing Company.

Corporators

Corporate name
and powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Alexander B. Barret, William T. Barret, David B. Harris, Edmund Robertson, J. M. Spicer, and John T. Bunch, and those who may associate with them as stockholders, and their successors, shall be and are hereby created a body politic and corporate, until the year 1890, by the name of the Coal Haven manufacturing company, and, by that name, are hereby made able and capable, in law, to take, purchase, hold, and possess lands, tenements, hereditaments, goods, chattels, merchandise, and effects, such as may be necessary for the purposes of said corporation, to an amount not exceeding five hundred thousand dollars; and the same to sell, grant, demise, alien, and dispose of at pleasure; also, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts of law and elsewhere; they may make, establish, and put in force such by-laws and ordinances as they may deem conducive and proper for the government of said corporation, and the management of its fiscal and prudential concerns, and the direction of its officers and agents; they may have and use a common seal, and may change, alter, and renew the same at pleasure; and generally may do and perform all such acts, matters, and things, for the purpose of carrying into effect the objects of this act, that corporations for limited purposes may do, not contrary to the constitution and laws of this or of the United States.

Capital stock.

Certificates.

§ 2. That the capital stock of said corporation shall be one hundred thousand dollars, capable of being increased to the sum of five hundred thousand dollars, if it shall hereafter be deemed necessary and proper; that the said capital stock shall be divided into shares of one hundred dollars each, to be subscribed, paid for, and held by the members of said company, agreeably to such rules and regulations as a majority of them shall agree and direct. For all stock, when fully paid for, certificates shall be issued, under the seal of the corporation, signed by the president and countersigned by the secretary; stock may be transferred by the proprietor thereof, on the books of the corporation, in person or by attorney in fact; and the assignee shall be entitled to a new certificate, upon the surrender of the old one. The stock shall be personal estate, and pass, be held, and descend as such; and each share shall entitle

the holder thereof to one vote in all elections and at all meetings of the stockholders.

§ 3. That Alexander B. Barret, and others named in this act, or any three of them, or any person or persons they may appoint, shall be and they are hereby authorized to open books for the subscription of stock in said company, in any city, county, or town in Kentucky, or in the cities of New York, Philadelphia, Cincinnati, and Boston, at any time after the first day of March next; and as soon as shares to the number of five hundred shall be subscribed, they may call a meeting of the subscribers who are stockholders, at such time and place in the town of Coal Haven, Daviess county, Kentucky, as they may name, on ten days notice published in three newspapers published in this state; and the said stockholders, at that time, and on the first Monday in January in each and every year thereafter, shall elect a board of directors, to consist of a president, treasurer, and three directors, all of whom shall be stockholders to the amount of at least two shares each. To the said board of directors shall be confided the business of the company, which shall be to carry on the manufacture of cotton, hemp, manilla, wool, tow, flax, and all other textile articles, and of buying, selling, and dealing in those articles; and they may purchase and erect such mills and works, storehouses and machine shops, and machinery, as may be necessary to carry on the business of said corporation; and hold such real estate as may be necessary for the erection of said buildings. The said board of directors shall require from their treasurer a bond, with security, as the said board may deem sufficient, for the faithful performance of his duty; and on the first Monday of January in each year, a fair and full statement of the preceding year's business shall be laid before the stockholders by the president of the board; and the said board may then divide the profits arising from the business, and pay them over to the stockholders, but no dividend shall be made so as to reduce the capital stock.

§ 4. The president, treasurer, and directors shall continue in office until their successors are appointed and qualified; and in case the president or either of the directors shall die or resign, the remainder shall supply the vacancy for the residue of the term. The corporation may go into operation so soon as five hundred shares are subscribed. The residue of the stock may be sold at such time and in such manner as the board of directors may direct.

§ 5. The board of directors shall appoint, in addition to the treasurer, all such clerks, agents, and laborers necessary to the business of the company or corporation, and may remove them at pleasure; and a correct record of the proceedings of the corporation shall be kept of the business and operations of the company, which books and papers

1852.

Books to be opened.

Organization of company.

Directors

Objects of the company.

Treasurer's bond.

Annual statement.

Dividends

Term of office.

Vacancy—how filled.

Directors may appoint other officers.

1852.

of the company shall be subject to the inspection of the stockholders at all general meetings thereof.

Agency.

§ 6. This company may, at any time, establish agencies, or unite with other similar companies chartered by the legislature of Kentucky; and said corporation shall not reduce the capital stock, by dividing the same, or withdrawal, until the debts of the corporation are paid, but said capital stock shall remain liable for all debts of said company. They may at any time, (three-fourths of the stock concurring,) dissolve the corporation and wind up its business: *Provided*, they first pay the debts of the corporation.

Dissolution.

Approved January 2, 1852.

CHAPTER 261.

AN ACT to amend the charter of the Perryville and Springfield Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so soon as three miles of the turnpike road leading from Perryville, in the direction of Springfield, Washington county, shall be completed, three justices of the peace in the county in which said three miles are completed, who are not interested in the stock of said company, shall be called on to examine the work; and if they shall certify that said road is made in conformity with the provisions of the charter of the Perryville and Springfield turnpike road company, the certificate shall be recorded in the office of the county court of said county, and the president and directors may cause a toll gate to be erected across said road, and may collect the tolls and duties hereinafter granted to said company, from all persons traveling with horses, cattle, carriages, &c., &c.

Toll gate.

Rates of toll.

§ 2. That when said toll gate is erected, as aforesaid, it shall and may be lawful for the president and directors of said road to appoint a toll gatherer, and to collect and receive of and from all and every person or persons using said road, the following tolls and rates: For every twenty head of sheep, hogs, or other small stock, three cents; for every ten head of cattle, three cents; for every horse, mule, ass, or other four footed animal of a larger kind, except cattle, two cents; for every two wheel pleasure carriage, four cents, exclusive of the beasts by which it is drawn and the person or persons transported in it; for every four wheel pleasure carriage, eight cents, exclusive as above; for every cart, if empty, five cents, and with a burden, eight cents; for every four wheel wagon, or other carriage of burden, whose wheels shall not exceed three inches in width, twelve and a half cents; for every such wagon or carriage whose wheels shall exceed three inches in width,

and not more than six inches in width, ten cents; for every such carriage whose wheels shall exceed six inches in width, five cents, exclusive of the established toll herein of the beasts by which they are drawn. The president and directors shall cause printed or written lists of the rates of toll which they may lawfully demand to be affixed at said gate.

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§ 3. That whenever the Perryville and Springfield road shall be completed, or five miles thereof, the president and directors shall erect gates, and proceed under the original charter herein.

Toll gate to be erected.

Approved January 3, 1852.

CHAPTER 262.

AN ACT to charter Union Lodge, No. 10, I. O. O. F., Nicholasville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That John C. Welch, D. P. Watson, George Brown, Thomas Peyton, Joseph H. Waller, John A. Scrogin, and their associate members of Union lodge, No. 10, independent order of odd fellows, in Nicholasville, be and they are hereby created a body politic and corporate, by the name and style of Union lodge, No. 10, independent order of odd fellows, with perpetual succession; and, by that name, shall be capable, in law, of having and using a common seal, of suing and being sued, of pleading and being impleaded, of answering and being answered, of defending and being defended in all courts and elsewhere, as natural persons; and may ordain and put in execution such by-laws, rules, and regulations for their government, and the management of the affairs of said corporation, and change and renew the same, as they may deem proper: *Provided*, they be not contrary to the laws of this state.

Corporators.

Corporate name and powers.

§ 2. That said corporation shall have power to acquire and hold real and personal estate, not exceeding five thousand dollars in value, and from time to time, if expedient, to sell and convey the same, or any part thereof, and to re-invest or dispose of the proceeds; and to create a fund, in the same manner, for the benefit of widows and orphans of members of the corporation who may die, sufficient to yield an annual income not exceeding one thousand dollars; and to make and change laws for its management and distribution.

May hold real estate, &c.

Create a widow's fund.

§ 3. The said corporation shall have power to establish a school and library, or either, and to acquire and hold for that purpose a fund, in the manner named in section second, for the support of the same, or either, sufficient to yield an annual income not exceeding one thousand dollars, and to appoint suitable teachers and stewards, and

School and library.

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Disposition of
property.

other necessary officers, and to remove the same at pleasure; and may ordain, execute, and change all laws, rules, and regulations, which they may deem necessary and proper: *Provided*, they be not contrary to the laws of this state.

§ 4. In the event of a dissolution of the corporation, its effects and property shall become the property of the grand lodge of Kentucky, independent order of odd fellows.

Approved January 3, 1852.

CHAPTER 263.

AN ACT to change the line of the Justices' and Constable's Districts Nos. 1 and 3, in Green county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the lines dividing the justices' and constable's districts No. 1 and No. 3, in Green county, be so changed as to include the residence of Daniel Crabb, Richard Strader, Thomas Strader, and William L. Strader in district No. 1.

Approved January 3, 1852.

CHAPTER 264.

AN ACT for the benefit of Samuel Woodson, late Clerk of Hopkins Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the auditor of public accounts be and he is hereby directed to issue his warrant on the treasurer for the sum of twenty dollars, in favor of Samuel Woodson, late clerk of the Hopkins circuit court, for the balance of *ex-officio* services due him up to the 24th March, 1851, the date of the repeal of the act making such allowances: *Provided*, that allowance for the time mentioned has not been made by the judge of said circuit, and in regular process of collection.

Approved January 3, 1852.

CHAPTER 265.

AN ACT to add the residence of George Spigall, in Pendleton county, to the county of Kenton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the farm and tract of land of George Spigall, on which he now lives, as lies in the county of Pendleton, be added to and shall hereafter compose a part of the county of Kenton.

Approved January 3, 1852.

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CHAPTER 266.

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AN ACT to amend an act, entitled, an act to provide for the sale of Island No. 4, in the Mississippi river, approved February 29, 1848.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the receiver of public moneys, for the sale of vacant lands west of the Tennessee river, be and he is hereby authorized to employ the county surveyor of Ballard county to divide island No. 4 into two or more lots, as, in the opinion of said receiver, will best promote the public interest, and, after such division, proceed to sell the said island in accordance with the provisions of the act to which this is an amendment, and allow and pay the surveyor a reasonable compensation for his services out of the proceeds of the sale. The receiver shall, by the county judge of Ballard county, be allowed a reasonable compensation for his services, out of the proceeds of the sales of the land.

Approved January 3, 1852.

CHAPTER 267.

AN ACT to establish an additional Justices' District and Election Precinct in Nicholas county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That an additional justices' district and election precinct, to be called and known as district No. 7, be and the same is hereby established and created in the county of Nicholas, with the following boundaries, viz: beginning at the mouth of Fleming creek; thence with the Maysville and Lexington railroad to the Fleming county line; thence with said line to the middle trace road; thence up said road to Highlander's branch; thence down said branch to Indian creek; thence up Indian creek to E. Mann's; thence across the Licking river, so as to include H. Gifford; thence down Licking to Sugar creek; thence up the west branch of said creek to the old Stamp road; thence with said road to Opossum hollow, on the Maysville and Lexington turnpike road, on Stoney creek; thence down Stoney creek to its mouth; and thence up Licking river to the beginning.

Boundary of district.

§ 2. That an election for two justices of the peace and constable for said district shall be held therein, at the Lower Blue Licks, on the second Monday in March, 1852; and the county court of Nicholas shall, at its next January or February term, appoint the proper and necessary officers to hold and conduct said election; and it shall be the duty of the sheriff of said county to attend and superintend the same, as in other cases; and in all respects, said election shall be held and conducted as other elections are required by law to be conducted.

Election of officers.

1852:

§ 3. That the district hereby created and established shall be a voting precinct at all elections hereafter held in said county, and the Lower Blue Licks shall be the voting place therein; and elections in said district shall, in every respect, be held and conducted as in other election precincts and places of voting in said county.

§ 4. That after said election in March next, the comparison of the polls and returns to the secretary of state shall be made as now required by the general election laws. The justices elected shall be commissioned, and they and the constable elected shall hold their offices, respectively, until the next general election of justices and constables, and until their successors are duly qualified.

Approved January 3, 1852.

CHAPTER 268.

AN ACT for the benefit of Samuel P. Losley, and Mary his wife.

WHEREAS, Samuel P. Losley and Mary Losley his wife, late Mary Abell, when they were about to intermarry, entered into a marriage contract by which her property was to be secured to her. The marriage took effect. Doubts are now entertained by some whether said contract is not null and void, because there was no trustee appointed by the parties to hold the property for the benefit of said Mary. For remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That upon the said Samuel P. Losley and Mary Losley exhibiting their petition to the Larue circuit court, praying for a trustee to be appointed, in whom the said property intended to be secured by said marriage contract to said Mary, shall be vested for the benefit of said Mary, and held by said trustee upon the same terms and conditions and for the same uses as is pointed out in said marriage contract. That upon the court's being satisfied such was the contract, and that it was fairly made, to order and decree a trustee to be appointed, and further to order and decree that said property shall be vested in such trustee, so appointed by the court, for the benefit of said Mary, as is stipulated in said marriage contract.

Approved January 3, 1852.

CHAPTER 269.

AN ACT to establish an election precinct in Keysburg, in Logan county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, it shall be the duty of the judge of the county court of Logan to appoint officers.

for the purpose of holding elections in the town of Keysburg, in Logan county, at the same time he may appoint officers for similar purposes in the different precincts of said county, who shall, in all elections held in said county, be governed by the same rules and regulations as other officers of elections in said county; and all that portion of the Ash Spring district, in said county, which shall be on the southeast side of a line running from Christian Ornduff's to James Terry's; thence to W. W. William's; thence to E. Prince's, Jr.; thence to Robert Young's; thence to Milton Gill's; thence to the Todd line, including the above individuals, shall constitute an election precinct, to be held in Keysburg; and said precinct is put upon an equal footing with the different precincts of said county, in all and every particular, according to the laws now in force regulating elections.

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Approved January 3, 1852.

CHAPTER 271.

AN ACT concerning the Public Records of the Bracken County Court.

WHEREAS, it appears from the report of the commissioners heretofore appointed, by an order of the Bracken county court, to examine the condition of the clerk's office of said court, that the orders of said court, from the organization of said county up to May court, 1851, have been made in small, irregular sized, and imperfectly bound books, none of which have been indexed; and the business of said court has increased to such an extent that it is impossible for the clerk of said court to trace the business, without great loss of time, and which is attended with great uncertainty. For remedy whereof,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the clerk of said court be directed, as soon as practicable, to procure well bound medium sized record books, in which he shall transcribe all the orders of said court, in the order in which the same were made in and upon the minute books of said county court, and, when so transcribed, shall make thereto a correct and true index, in a book to be provided for that purpose; and which index book and order books, herein mentioned, shall be paid for by said county court out of the county levy.

Record books.

§ 2. That the said clerk shall be allowed such fees for transcribing and indexing said orders as the county court may deem just and fair; and the county court of said county, at the court of claims in each and every year, shall make an allowance to said clerk, to be paid out of the county levy, for the amount of his services in transcribing said records, up to the date of the allowance, which shall be made out by said clerk in the form of an account,

Clerk's allowance.

1852.

Index to record books.

Clerk's compensation.

and sworn to by him, having first been examined and certified by the county attorney to be correct.

§ 3. That it shall be the duty of the clerk of said court to index the record books, containing the record of wills, settlements of executors and administrators, and the settlements and reports of guardians, in a well bound book procured for that purpose; for which index said clerk shall be allowed a fair and adequate compensation by said court, to be paid out of the county levy, said index to be, however, first examined and approved of, and so certified to said court, by commissioners appointed by said court to examine the same.

Approved January 3, 1852.

CHAPTER 272.

AN ACT to give additional power to the Madison County Court.

WHEREAS, the county court of Madison county is preparing to have a new jail erected for said county, which will cost more money, for its needful and speedy completion, than can be conveniently and justly raised from the current resources. Therefore,

Tax for new jail; amount.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Madison, the presiding judge thereof and a majority of all the justices of the peace for said county being present and constituting the same, shall have full power and authority to levy an *ad valorem* tax, not exceeding four cents on each one hundred dollars worth of property, of the citizens of said county subject to taxation for revenue; which said tax shall be collected in the same manner and upon the same terms, by the sheriff of said county, as the revenue tax, according to the assessments in the assessors' books, and he shall pay the same, on or before the twentieth day of December in each year, to such person or persons as said court may direct.

Slaves not to be taxed.

Court supply deficiency.

Act in force for two years.

§ 2. That no levy shall be laid or collected on slaves; nor shall a larger levy than one dollar per head be laid on white tithes, by said court; but if that be not sufficient to defray the ordinary expenses of the county, the said court shall have power to supply the deficit, as well as any deficit that may now exist, out of the *ad valorem* tax.

§ 3. That the provisions of this act shall continue in force for two years.

May change county levy.

§ 4. That the county court of Madison county is hereby authorized to change the order made at its last October term, laying and fixing the county levy for the year 1852, and re-lay the same according to this act.

Approved January 3, 1852.

CHAPTER 273.

1852.

AN ACT to incorporate the town of New Haven.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the citizens of the town of New Haven, in Nelson county, be and are hereby incorporated and made a body politic and corporate, under the name and style of the town of New Haven, with full power to contract and be contracted with, to sue and be sued, to plead and be impleaded, to answer and be answered, and to do and perform all such acts and things, either in law or equity, as bodies politic and corporate, having perpetual succession, may rightfully do and perform.

Corporate name and powers.

§ 2. The limits of said town shall be as follows, to-wit: beginning on the bank of Rolling fork, at the mouth of a bayou; thence S. 36 W. 16 poles to a stake; thence S. 47½ W. 61 poles, between Blincoc and Weathers; thence S. 82 E. 48 poles to a corner between Wilkerson and Blincoc; thence N. 56½ E. 92 poles; thence N. 15 E. 12 poles, between Ford and Fogle; thence N. 80, W. 100 poles, to a corner of Robert Abel and Robert Ford; thence N. 10 E. 92 poles, to a stake in William Elliott's line; thence N. 70, W. 36 poles, crossing the turnpike at 18 poles, to a stake in William Elliott's field; thence S. 10 W. 57 poles, to a corner between Dr. Wilkerson Elliott and the trustees of the Methodist church; thence S. 87 W. 60 poles, to Rolling fork; thence up said fork to the beginning.

Boundaries.

§ 3. That on the first Saturday in March next, and on the same day in each succeeding year, an election shall be held in said town for the choice of seven trustees to serve said town for the ensuing twelve months, and until their successors are duly elected and qualified; and all resident white male citizens of said town, over the age of twenty-one years, shall have the right to vote in said election; but no person shall be qualified to act as trustee, who shall not be a resident of said town, nor until he shall have taken an oath, before a justice of the peace, faithfully to perform the duties of the office of trustee of said town. The first election shall be held under the supervision of the sheriff or a justice of the peace for said county.

Trustees; election.

§ 4. Said trustees may make such rules, regulations, and by-laws for the government of said town, as they may deem advisable, provided they are not incompatible with the constitution and laws of this state, or of the United States.

May enact by-laws, &c.

§ 5. That said trustees shall have power to open the streets and alleys of said town, to grade, pave, and McAdamize them, and to make such other improvements for the benefit of said town as they may deem proper.

Streets.

§ 6. That the said trustees shall have power to tax the real and personal property of said town, *ad valorem*, not exceeding twenty-five cents for each hundred dollars of

May levy tax.

1852.

value thereof; they shall have power to levy a capitation tax on all white male citizens and resident slaves over twenty-one years of age, not to exceed one dollar in each year, and they may appoint a marshal and collector to serve them for twelve months, and may require the collector to give bond and security for the faithful performance of his duties, in such penalty as they may deem proper.

Power to
amend reserved.

§ 7. That this charter may be altered or amended at the pleasure of the general assembly.

Approved January 3, 1852.

CHAPTER 274.

AN ACT to establish the town of Stylesville, in Pulaski county.

Limits of town.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for Samuel Griffin, of Pulaski county, to lay off any number of acres of land, not exceeding forty, of the tract whereon he now lives, in said county, on Buck creek, as a town, with the necessary streets and alleys, and in lots of such size as he may think proper; which town shall be known and called by the name of Stylesville.

Trustees.

§ 2. That John Kilburn, Campbell Griffin, Solomon Kilburn, General Griffin, and Abraham Vaught be and they are hereby appointed trustees of said town, who shall have the same power and authority that trustees of other towns in this commonwealth possess, under the general laws regulating towns.

Election.

§ 3. That it shall be lawful for the free white male citizens of said town, over the age of twenty-one years, and the owners of lots in said town, who are legal voters of said county, annually to elect five trustees for the government of said town; the first election to be held on the first Saturday in April, 1853, and on the same day in every year thereafter, until which time the trustees herein appointed shall remain in office and are duly qualified.

Power of
trustees.

§ 4. That said trustees shall have power to fill vacancies which may occur in their body, until the regular election; they may make such by-laws as they may deem necessary for the good government of said town, not inconsistent with the constitution and laws of this state; and they shall keep a fair record of their proceedings as trustees; and before they enter upon their duties they shall take an oath before some justice of the peace of said county, to faithfully discharge the duties of their offices aforesaid.

Approved January 3, 1852.

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CHAPTER 275.

1852.

AN ACT further to regulate the town of Mount Gilead, in Pulaski county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, no license shall be granted which shall have the effect to authorize any person or persons to retail intoxicating liquor in the town of Mount Gilead, in Pulaski county, nor within one-fourth of a mile of the limits of said town; and every license which may hereafter issue contrary to the provisions of this act, shall be void.

Approved January 3, 1852.

CHAPTER 276.

AN ACT to create an additional Constable's and Justices' District in Hickman county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all that part of Hickman county lying within the following bounds, to-wit: beginning at the mouth of the Little Obion creek; thence up the same to the road leading from Columbus to Moscow; thence with said road to the Caldwell mill road; thence with said road to Caldwell's mill, on the Bayou Duchien creek; thence up the creek to the line between districts Nos. 2 and 4; thence with said line to the Fulton county line; thence with said line to the Mississippi river, and up the same to the beginning, be and the same is hereby made an additional constable's district, in which a constable shall be elected on the first Monday in August, 1852, and two justices of the peace shall be elected on the first Monday in August, 1854; and the voting place therein is hereby established at the tavern house of the late Samuel P. McFall, in the town of Moscow: *Provided,* that the jurisdiction of the constable and justices of the peace now in office, in the district from which this district is taken, shall, until the next regular election for those officers, respectively, exercise all their duties as though this act had not passed.

Approved January 3, 1852.

CHAPTER 277.

AN ACT to divide Hopkins county into seven Magistrates' and Constable's districts and Election Precincts.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the county of Hopkins is hereby laid off and divided into seven districts for the election of two magistrates and one constable in each, and each of the said districts shall form one election precinct, as follows, to-wit:

District No. 1.—Beginning at the Christian county line,

District No. 1

1852.

where the Buttermilk road crosses the same, near George Terry's; thence eastwardly with the county line, and northwardly with the same to the mouth of Drake's creek; thence up Drake's creek to opposite Allen Merit's (known as Cole's old place;) thence a straight line, to include said Merit's, to Thomas L. Bryan's, to exclude him; thence to include Travis Graddy's; thence a straight line to the nearest point on Flat creek; thence up Flat creek, crossing the Hopkinsville road at the widow Mitchell's, to the head of the main creek; thence a straight line to where the Christian Privilege road crosses Richland creek, south of George Wright's, excluding George Wright and Richard M. Wright; thence south with the Christian Privilege road to the north prong of Cane run; thence down said run to its junction with another prong of said run, which runs between John Woodruff and John Keyzer; thence up the last mentioned prong of said run to the Buttermilk road; thence with the said road to the beginning; and James W. Clarke's the place of voting for district No. 1.

No. 2

District No. 2.—Beginning at the mouth of Drake's creek; thence down Pond river to White's landing; thence with White's landing to William P. Hampton's, to exclude him; thence a straight line to Roland Gooch's, to include him; thence a straight line to the Henderson road, at Robert Brown's; thence with the road to Madisonville; thence with Main street, so as to include Thomas Berry's, to the Hopkinsville road; thence with said road to Flat creek, at the widow Mitchell's; thence down Flat creek to the nearest point to Travis Graddy's; thence to said Graddy's, excluding him; thence to include Thomas L. O'Bryan and to exclude Allen Merit, to Drake's creek; thence down Drake's creek to the beginning; and the court house the place of voting for district No. 2.

No. 3.

District No. 3.—Beginning at White's landing on Pond river; thence down Pond river to Green river; thence down Green river to the mouth of Deer creek; thence up Deer creek to the bridge on the Henderson road, near John Conch's old farm; thence with the south end of said road to Robert Brown's; thence a straight line, to exclude Roland Gooch; thence a straight line, to include William P. Hampton; thence with the White's landing road, to the beginning; and Seaborn Reynolds' the place of voting for district No. 3.

No. 4.

District No. 4.—Beginning at the mouth of Leathers' fork of Deer creek, on the county line; thence westwardly with the county line to where the Morganfield road, by Mrs. Sugg's, crosses the same; thence with said road, towards Madisonville, to Musgrave's creek; thence up said creek to the eastern fork; thence up said eastern fork to the road at Moses Paine's old place, to exclude said place; thence a straight line, to include Tapley Farmer; thence

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a straight line, to exclude Henry Graves, Sr.; thence a straight line to the Henderson road at Robert Brown's, excluding him; thence northwardly with the Henderson road to the bridge on Deer creek, near John Couch's old farm; thence down Deer creek to the beginning; and Vandersburg to be the place of voting for district No. 4.

District No. 5.—Beginning at the county line where the Morganfield road, by Mrs. Sugg's, crosses the same; thence southwardly with the county line to Wilson's warehouse; thence with the Providence road to the north end of Archibald Coleman's lane, excluding Gabriel W. Jennings; thence a straight line, to include Joshua Wade's; thence to the nearest point on Trace branch; thence down said branch to Clear creek; thence up Clear creek to the bridge on the Henderson and Princeton road; thence with the north end of said road to the Morganfield road, by Mrs. Sugg's; thence with said last mentioned road to the beginning; and Providence the place of voting for district No. 5.

No. 3.

District No. 6.—Beginning at Wilson's warehouse, on Tradewater; thence up Tradewater and with the county line to where the Buttermilk road crosses the same, near George Terry's; thence northwardly with the Buttermilk road to a prong of Cane run, which runs between John Woodruff and John Keyzer; thence down said run to its junction with the north prong of said run; thence up said north prong to where the Christian Privilege road crosses the same; thence with the said road to Richland creek; thence down said creek to the Madisonville and Princeton road; thence northwardly with said road to Sugar creek; thence down Sugar creek to Clear creek; thence down Clear creek to the mouth of Trace branch; thence up Trace branch to a point nearest Joshua Wade's; to exclude him; thence a straight line to the north end of Archibald Coleman's lane; thence with the Wilson warehouse road to the beginning, including Gabriel Jennings'; and Charleston the place of voting for district No. 6.

No. 4.

District No. 7.—Beginning where the Hopkinsville road crosses Flat creek, near the widow Mitchell's; thence north with the road to Madisonville; thence with Main street, excluding Thomas Berry's, to the Henderson road; thence with said road to Robert Brown's, to include him; thence a straight line, to include Henry Graves, sr.; thence a straight line, to exclude Tapley Farmer's; thence a straight line, to include Moses Paine's old place; thence down Musgrave's creek to the Morganfield road, by Mrs. Sugg's; thence west with said road to the Henderson and Princeton road; thence southwardly with said road to Clear creek; thence up Clear creek to the mouth of Sugar creek; thence up Sugar creek to the Madisonville and Princeton road; thence southwardly with said road to Richland creek;

No. 7.

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thence up Richland creek to where the Christian Privilege road crosses the same; thence to the head of Flat creek, so as to include George Wright and Richard M. Wright; thence down Flat creek to the beginning; the seminary building, near the town of Madisonville, the place of voting for district No. 7.

§ 2. On the first Monday in August next, an election shall be held in district No. 7, for the election of two magistrates and one constable, who shall in all respects conform to and be governed by the laws of this commonwealth in relation to such officers, and shall hold their offices until the expiration of the offices of the magistrates and constables elected in said county in May last, and until their successors are elected and qualified.

Approved January 3, 1852.

CHAPTER 278.

AN ACT to incorporate the Owingsville and Poplar Plains Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company be and is hereby organized for making an artificial turnpike road, on the McAdam plan, from Owingsville, by the way of Wyoming, to the Poplar Plains, under the name and style of the Owingsville and Poplar Plains turnpike road company.

Capital stock.

Books opened.

§ 2. The capital stock of said company shall be seventy-five thousand dollars, to be divided into shares of fifty dollars each. Subscriptions toward constituting stock in said company shall be opened at Owingsville, at Wyoming, at Hillsborough, at Poplar Plains, at Flemingsburg, on the first Monday in March next, or in convenient time thereafter, and continue open until the whole stock shall be subscribed for, and shall be under the direction of the commissioners hereafter appointed.

Commissioners.

§ 3. That the following persons be and they are hereby appointed commissioners to do and perform the several duties required by this act: at Owingsville, Major James Sudduth, Wm. M. Ragland, James M. Nesbit, Joshua Ewing, F. Rand, Joseph H. Richart, A. Trumbo, J. A. Turner, Jr., and R. B. Gordon; at Wyoming, D. B. Emmons, Jesse Atchison, George A. Trumbo, James H. Arnold, and John E. Young; at Hillsborough, Thomas M. Crane, F. B. Davis, Rev. G. Barksdale, William Shields; at Poplar Plains, James Fant, Edward Bolls, and Dr. E. A. Logan; at Flemingsburg, William H. Cord, George Bishop, William T. Dudley, L. W. Andrews, L. M. Cox, and Joseph Alexander.

§ 4. That each of the five classes of commissioners named in section three of this act, or such of them as shall

act, shall procure a book or books, and the subscribers therein shall subscribe an obligation of the following tenor, to-wit: We, whose names are hereunto subscribed, do respectively promise to pay to the Owingsville and Poplar Plains turnpike road company, the sum of fifty dollars for each share set opposite to our respective names, in such proportions and at such times as shall be determined by said company.

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Nature of obligation.

§ 5. That so soon as one hundred shares shall have been taken of said stock, it shall be the duty of said commissioners, or such of them as may act, to give notice of a meeting of the stockholders of said company, in the town of Owingsville, for the purpose of choosing officers, to-wit: a president and five directors, treasurer, and such other officers as may be necessary; such notice to be by advertisement, fifteen days previous to such meeting, in one of the Maysville newspapers, and on the court house doors in Owingsville and Flemingsburg, and on the tavern doors in each of the towns of Owingsville, Wyoming, Hillsborough, Poplar Plains, and Flemingsburg; and that the votes choosing the officers of said company shall be regulated by the number of shares, allowing one vote for each share.

When meeting to be called.

§ 6. That the whole width of said road shall be forty feet, and the artificial part thereof covered with stone sixteen feet in width.

Width of road.

§ 7. That it shall be lawful for the trustees of any town, or any corporation created by law, by their agent for such purpose appointed, to subscribe for and hold shares in the capital stock of said company, in the same manner that natural persons do, and to hold and exercise the same right of representing their stock in said company, by the votes of their respective agents, and enjoy all the rights and privileges that any stockholder may possess.

Subscription of stock.

§ 8. That so soon as said company shall be organized the president, directors, and other officers shall possess all the powers, authorities, rights, and privileges, and may do and perform the acts and things necessary for carrying on and completing said turnpike road, as well as laying out and locating the same; and shall be subject to all the duties, qualifications, restrictions, penalties, fines, and forfeitures (if any;) and shall be entitled to like tolls and profits as are granted and given to the Cynthiana and Millersburg turnpike road company, approved February 22, 1847; and all the provisions of said act, and of the act incorporating the Lexington and Maysville turnpike road company approved January 22, 1847, and made part of said first mentioned act, are hereby enacted as part of this act, except so far as provided in the preceding part of this act, or may come in collision with the provisions of the same.

Corporate powers.

§ 9. That the elevation of the grade of said road shall be fixed and regulated by said corporation.

Elevation.

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§ 10. That there shall be four toll gates only erected on said road.

Approved January 3, 1852.

CHAPTER 279.

AN ACT to change the boundaries of certain Election Precincts in Trigg county, and for other purposes.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That district No. 1, in the county of Trigg, be divided into two election precincts, and that the road from Canton to Aurora be the line between said election precincts; and that the place of voting in the precinct north of said road be at Ferguson's spring, and the voting place in the precinct south of said road be at or near the house of John Tutrell.

§ 2. That that portion of district No. 3, lying south of the road leading from Eddyville to Hopkinsville, be stricken off said district and attached to district No. 6.

Approved January 3, 1852.

CHAPTER 280.

AN ACT authorizing the Russell County Court to sell Clerks' Office Furniture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the county court for Russell county to appoint a commissioner to sell, on such terms and conditions as said court may direct, any or all of the furniture, presses, &c., that may have belonged to the old county and circuit court clerks' offices in said county, the proceeds of which sales shall be applied by said county court to the lessening of the county levy for said county.

Approved January 3, 1852.

CHAPTER 281.

AN ACT to incorporate the Louisville Farmers' Tobacco Warehouse Company.

WHEREAS, Joshua B. Bowles, U. E. Ewing, A. Gray, A. Throckmorton, H. D. Newcomb, Geo. J. Rowland, and others, have associated themselves for the purpose of erecting a large and commodious tobacco warehouse in the city of Louisville, and have subscribed for stock in the same, and have nearly completed the building, and have requested an act of incorporation. Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company shall be and the same

is hereby established, to be called the "Louisville farmers' tobacco warehouse company," the subscribers to which, their successors, assigns, and associates, shall be and are hereby made a body politic and corporate, for the term of twenty years from the passage of this act; and, under that name, they may contract and be contracted with, and may have, purchase, lease, enjoy, and hold to themselves and their successors, lands, rents, tenements, goods, and securities, as may be necessary for the carrying on said warehouse, and to sell, assign, and dispose of the same at pleasure; and should there, at any time, be any apartments in said building not required for the reception, inspection, and storage of tobacco, they may use the same for the storage of other articles, or may lease them for that purpose; and they may sue and be sued, plead and be impleaded, defend and be defended, in courts of record and elsewhere; and make and use a common seal, and break, alter, and renew the same at pleasure; and, also, establish by-laws and regulations for the government of said company, not contrary to the laws of the commonwealth and of this act.

§ 2: The capital stock shall be twenty thousand dollars, to be divided into shares of fifty dollars each.

§ 3. U. E. Ewing, George J. Rowland, P. R. Gray, Geo. L. Douglass, Allen S. Wallace, H. D. Newcomb, and J. B. Bowles, or any three of them, are appointed commissioners for receiving subscriptions for stock, and shall cause books to be opened for the same; and the subscribers to said private company shall have the right to have equal amounts of stock in this corporation; and the sums paid on said private subscription, towards building said warehouse shall be a credit on the stock of said persons.

§ 4. As soon as twelve thousand dollars shall be subscribed and paid in, this act shall go into effect, and the commissioners shall call a meeting of the stockholders, who shall, by ballot, select a president and three directors, to continue in office until the second Monday in January, 1853. There shall be an annual meeting of the stockholders on the first Monday in January, in each year, to select a president and three directors, their term to commence on the second Monday; and, at such annual meetings, a statement shall be exhibited of the affairs of the corporation, and such dividends made, arising from their rents, fees, and profits, as shall be deemed advisable by a majority of the stockholders present.

§ 5. The president and directors, or a majority of the board, may, from time to time, make such by-laws and rules for the government of the corporation as to them shall seem expedient, not inconsistent with the laws of the commonwealth and with this act; and they shall appoint such subordinate officers and agents as may be necessary

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Style of corporation.

May hold real estate, &c.

Capital stock.

Opening of books.

President and directors.

May make by-laws, &c.

1852.

and proper for the executing the business of the corporators.

§ 6. The president and directors may receive, at cost, from the private stockholders, the building on second street, above referred to, and take a proper conveyance of the same, subject to all the obligations of said private company, giving credit to each on their stock, as provided in section third of this act.

Form of certificates, &c.

§ 7. The form and certificates of stock, and mode of transfer, shall be regulated by the by-laws of the corporation; and a lien is hereby created, in favor of the corporation, on the stock belonging to each individual shareholder for all debts due or owing by him to the corporation, by subscription or otherwise; and no stock shall be transferable by any shareholder until he shall have first paid or otherwise secured all such debts to the satisfaction of the president and directors.

§ 8. In case of the death or resignation of the president or any directors, the board shall select a successor, to continue in office until the vacancy is filled at the next annual meeting of the stockholders.

§ 9. Nothing herein contained shall be held to impair the liability of said private company for all their contracts, as now existing.

Approved January 3, 1852.

CHAPTER 282.

AN ACT to amend an act regulating the town of Salvisa, in Mercer county, approved February 9, 1828.

Trustees; their powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of the town of Salvisa, and their successors in office, shall be a body politic and corporate, and shall be known by the name and style of the "board of trustees of Salvisa;" and, by that name, shall be capable, in law, of contracting and being contracted with, of suing and being sued, in all courts of justice, and to do all other acts and things which a body politic and corporate may of right do, and may use a common or private seal.

May open and improve streets.

§ 2. That said trustees shall have power to make and receive all necessary conveyances in relation to said town; they shall have power over the streets, alleys, and sidewalks of said town, and shall have power over such as may be hereafter opened; and, when the interest of said town may be thereby promoted, to close up or change alleys, and open new ones, on paying the owners such damages as may be assessed; and may direct the improvement of the same, in such manner as they may deem most beneficial to the interest of said town. They shall have full

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power and authority to make all necessary by-laws for the regulation and good government of said town, not inconsistent with the constitution and laws of this commonwealth. They shall have power to levy and collect a tax upon all property, real, personal, or mixed, (as well as a full tax upon all property, real, personal, or mixed,) as well as a poll tax upon all legal voters of said town, so as not to exceed in any one year the sum of two hundred dollars. They shall, also, have power to tax all auction sales, shows, and exhibitions for money, such sum as they, by their by-laws, may declare. They shall also have power to suppress all tippling houses within the limits of said town, at any time, and to fine all persons who may violate their by-laws, any sum not exceeding twenty dollars for each offense, which may be recovered before the police judge or any justice of the peace residing in said town.

1852.

May levy tax.

Suppress tippling houses, &c.

§ 3. The trustees of said town shall levy no tax, nor make any appropriation of money, without the concurrence of a majority of the board of trustees; and in case of death, removal, or resignation of any one or more of said trustees, the board shall have power to fill such vacancy until the next annual election.

Vacancies how filled.

§ 4. That it shall be the duty of the board of trustees to annually elect a secretary of the board, who shall keep a book, in which shall be written the proceedings of said board at each of their meetings, and which shall be signed by the chairman of the board.

Secretary.

§ 5. That the proceedings of the board of trustees, in levying and collecting a tax in the said town of Salvisa, heretofore, for the benefit of said town, be and the same is hereby declared legal and valid.

Approved January 3, 1852.

CHAPTER 283.

AN ACT for the benefit of Monroe county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the presiding judge of Monroe county court shall have full power, at any regular county court, sixty days next preceding any election, to change the place of voting in any voting precinct now established by law in said county.

County judge may change precincts.

§ 2. That said judge shall have full power, at any regular county court, sixty days next preceding any election, to order and make such changes in the boundary lines of voting precincts and justices' districts as to him shall seem proper; and whenever any such change shall be made, either in the voting place in a voting precinct, or in the boundary lines of a justices' district or voting precinct, it shall be the duty of such judge to cause and require the same to be ex-

Duty of judge

1852.

Duties of officers.

tered and spread upon the records of the county court, at full length, in a plain and concise manner, one copy of which the clerk of such court shall transmit forthwith to the secretary of state, to be filed and carefully preserved by him in his office; and said clerk shall furnish, forthwith, to the sheriff of the county, two other copies, and of which to be posted up by him at the place of voting in such district, and the other at the door of the court house in his county, for at least thirty days preceding the next succeeding election after such change. And any clerk or sheriff who shall fail and neglect to perform the duties imposed upon him in this act, shall be fined ten dollars, by the said judge of said court, upon the motion of any one who may prosecute the same; and it shall be the duty of the county attorney to attend to the same in behalf of the county; and such fine shall pass into the hands of the county treasurer, for the use of the county.

How district to be changed.

§ 3. That whenever any person shall desire to have the voting place in a voting precinct changed, or the boundary line of any justices' district or voting precinct changed, he or they shall advertise, in writing, the fact at three of the most public places in said district or precinct, and upon the court house door of the county, for at least thirty days before the motion is made, in which advertisement the particular change or alterations desired to be made shall be set forth; and upon proof of such advertisement having been made, the judge of said court may proceed to hear and determine the motion aforesaid for such change: *Provided, however*, that said court shall not make any change in the boundary lines of any justices' district or voting precinct, without the consent of a majority of those voters who are proposed to be transferred from one district to another: *and, provided further*, that if, in any such change, the residence of a constable or justice of the peace shall be transferred from one district to another, such change shall not take effect until the expiration of the time for which such justice or constable has been elected.

Approved January 3, 1852.

CHAPTER 284.

AN ACT establishing additional voting places in Kenton and Campbell counties.

Kenton county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, in addition to the voting places now established by law in the first and second magistrates' districts, in Kenton county, there is hereby established a voting place at or near the school house, in the town of Ludlow, in said first district; and one at or near the second toll gate on the Lexington and Covington turnpike road, in the said second district.

§ 2. Thornton Timberlake, William Perry, James Goodloe, and John W. Leathers are hereby appointed commissioners to designate the boundaries of the precincts in which the aforesaid are the voting places; and when the said commissioners shall have designated said boundaries, they shall, at or before the next May term of the county court, report the same, under oath, to the county court of Kenton; and the said report shall be entered upon the records of said court; and the clerk of said court shall give notice of said boundaries, by publishing the same in some one or more of the papers published in the city of Covington.

1852.

Commissioners.

§ 3. In addition to the voting place now established by law in the Jamestown district, in Campbell county, there is hereby established a voting place at or near Kestiler's tavern, in said district.

Campbell co.

§ 4. James M. McArthur, Samuel Carter, and Thomas L. Jones are hereby appointed commissioners to designate the boundaries of said precinct, and the same they shall report, under oath, to the Campbell county court, at or before the next May term of said court; and said report shall be entered upon the records of said court; and the county clerk shall give notice of said boundaries, by publishing the same in one or more of the papers published in the city of Newport.

Commissioners.

Approved January 3, 1852.

CHAPTER 285.

AN ACT to incorporate the Owingsville and Mountsterling Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company is hereby created a body politic and corporate, under the name and style of the Owingsville and Mountsterling turnpike road company, for the purpose of constructing a turnpike road between the two places.

Style of corporation.

§ 2. That the capital stock of said company shall be fifty thousand dollars, to be divided into shares of fifty dollars each. The books for subscriptions for said stock shall be opened at Owingsville and Mountsterling, on the first day of March next, or such time thereafter as the commissioners may designate, and continue open until the stock is taken.

Capital stock.

Books to be opened.

§ 3. That the following persons, or such of them as will act, are appointed commissioners to open the books: at Owingsville, Andrew Trumbo, B. D. Lacy, F. Rand, T. B. Gordon, W. W. Apperson, George Hamilton, and T. I. Young; and at Mountsterling, R. Apperson, T. C. Barnes, B. J. Peters, S. D. Mitchell, T. F. Hazlerigg, Y. Millsbaugh, and Walter Chiles. That each class of commissione

Commissioners

1852.

above named shall open one or more books, and the subscribers therein shall sign an obligation in the following form, viz: "We, whose names are hereto subscribed, do respectively promise to pay the Owingsville and Mountsterling turnpike road company the sum of fifty dollars for each share of stock set opposite to our respective names, in such proportions and at such times as shall be determined on by said corporation."

Organization.

§ 4. When five thousand dollars of said capital stock is subscribed, it shall be the duty of said commissioners, or such of them as may act, to give notice, in writing, of a meeting of the stockholders of said company, in the town of Owingsville, for the purpose of organizing said company by choosing officers, to consist of a president and five directors, a treasurer, and such other officers as they may deem necessary; notice to be given at least fifteen days previous to the meeting, by posting the same up at the court house doors and tavern doors in Owingsville and Mountsterling; each stockholder shall be entitled to one vote for every share of stock held by him.

Width of road.

§ 5. That the whole width of said road shall be forty feet, and the part covered shall be sixteen feet; that the elevation of the grade of said road shall be fixed and regulated by said corporation. That there shall not be more than three toll gates on said road, and neither of them shall be located within one mile of the towns of Owingsville and Mountsterling.

Who may take stock.

§ 6. That it shall be lawful for the trustees of any town, or any corporation created by law, or county courts of Bath and Montgomery, by their agent or agents for such purposes appointed, to subscribe for stock in said company, in the same manner as natural persons may, and to have and exercise the same right of representing their stock in said company, by the votes of their respective agents, and enjoy all the rights and privileges that any stockholder may possess.

Corporate powers.

§ 7. That so soon as said company shall be organized, the president, directors, and other officers, shall possess all the powers, authority, rights, and privileges, and may do and perform all acts and things necessary for carrying on and completing said turnpike road, as well as laying out and locating the same; and shall be subject to all the duties, qualifications, restrictions, penalties, fines, and forfeitures, if any; and shall be entitled to the like tolls and profits as are given and granted unto the Cynthiana and Millersburg turnpike road company, by the act incorporating said company, approved February the 23d, 1847; and all the provisions of said act, and of the act incorporating the Maysville and Lexington turnpike road company, approved January 22, 1827, and made part of said first mentioned act, are hereby enacted as a part of this act, except

so far as provided in the preceding part of this act, or may come in collision with the provisions of the same.

1852.

Approved January 3, 1852.

CHAPTER 288.

AT ACT for the benefit of George S. Gravit, late Sheriff of Grant county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the further time of one year, from the passage of this act, be and the same is hereby allowed to George S. Gravit, late sheriff of Grant county, for the collection of the balance of the revenue tax and county levies due, and fee bills due to and listed with him for the years 1846 and 1847.

§ 2. That Charles O'Hara, former deputy of said Gravit, who vacated his office by removing from the county of Grant, but is now a resident of said county, be and he is hereby restored to his said office.

§ 3. That said sheriff is hereby released from the payment of interest upon two judgments rendered against him by the county court of Grant, for the levies unpaid by him for the years 1846 and 1847.

Approved January 3, 1852.

CHAPTER 287.

AN ACT to incorporate the town of Sparta, in Owen county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the free white male inhabitants of the town of Sparta, in the county of Owen, the limits of which are hereby defined, to-wit: beginning at a stone on the bank of the mill race of Thomas C. Ross, on Eagle creek; thence north 64 east 41 poles; thence south 26 east 66 poles, to the Proctor and Ross' mill turnpike; thence south 64 west 41 poles; thence north 26 west to the beginning, containing all the lots laid out by Hiram Kelsey, as surveyor; and the owners of lots in said town shall, on the first day of March, 1852, and on the same day in each and every year thereafter, meet at some convenient place within said town, and proceed to elect five trustees for said town, who shall hold their office for one year next after their election, or until their successors are duly appointed; and said first election shall be conducted under the direction of J. M. Coats, or some other justice of the peace of said county, who shall act as judge therein; and said trustees, as also their successors thereafter elected pursuant to the provisions of this act, shall take an oath before some justice of the peace of said county, truly and faithfully to perform the duties enjoined on them by law, as trustees.

Corporate lim
its.

Trustees elect-
ed.

1852.

Style of corporation.

§ 2. That said trustees and their successors shall be a body corporate; and, by the name and style of the trustees of the town of Sparta, may sue and be sued, plead and be impleaded, in any of the courts of law and equity of this commonwealth; they shall have power to pass all necessary ordinances and by-laws for their improvement, regulation, and advancement of the interest and morals of said town, not inconsistent with the constitution of the United States, or the constitution and laws of this state.

Powers of trustees

§ 3. Said trustees shall have power to assess a poll tax on the legal tithables of said town, not to exceed fifty cents, and levy an *ad valorem* tax on the real and personal estate within said town that is now taxed by the revenue laws of this commonwealth, not to exceed fifty cents on each one hundred dollars worth of property; said trustees shall have power to appoint, annually, an assessor, who shall be sworn to the faithful and impartial discharge of his duty. It shall be the duty of said assessor to make out and furnish to the said trustees, at such time as they may appoint, lists of the taxable property of each individual in said town, with the value attached thereto; and, also, a list of the lots, and the value thereof, which belong to individuals who do not reside in said town. They shall also have power to appoint a collector, annually, to collect the taxes assessed on the taxable property and tithes in said town, who shall give bond and security to the trustees of said town for the faithful performance of all his duties; and said collector shall have power, if necessary, to collect and coerce the payment of all the taxes assessed by the trustees of said town, by distress and sale, in the same manner as is now authorized by law in regard to sheriffs in collecting the revenue and county levy in this commonwealth; and said trustees shall allow to said assessor and collector an adequate compensation for their services.

Trustees choose president.

§ 4. The trustees of said town shall, upon the first day of May after their election, meet and choose from among their number a president of the board, who shall hold his office until the next annual election, and whose duty it shall be to convene the trustees from time to time, and to preside at their meetings, and to sign all ordinances and by-laws by them passed and enacted. Said trustees shall also elect a clerk, who shall continue in office for one year, or until another is duly appointed, whose duty it shall be to preserve and safely keep all papers belonging to or filed with said board, and shall attend the meetings thereof, and record all their proceedings in a book to be procured by said board for that purpose, and sign the same as such clerk; and shall copy and certify all records and ordinances, when necessary.

Clerk.

Treasurer.

§ 5. That said trustees shall have power to appoint a treasurer, who shall keep the funds of said town safe, and

pay the same over, by order of said board, to such person or persons as he shall be directed; and said board may require bond and security of said treasurer, conditioned for the safe custody and payment of said funds, as aforesaid; and for a breach of said bond, such legal proceedings may and shall be had as upon bonds executed by the sheriff for the collection of the revenue of this commonwealth.

§ 6. That said board shall have authority to sue for and recover all penalties annexed to a breach of their ordinances and by-laws, before a justice of the peace, or other proper authority having jurisdiction thereof.

§ 7. No person shall have a right to vote for trustees of said town, save the free male inhabitants thereof who have attained the age of twenty-one years, and who are entitled to vote for county representatives, and all other male persons who have attained the age aforesaid, (negroes, mulattoes, and Indians excepted,) who own a town lot or lots in said town.

Who to vote
for trustees.

Approved January 3, 1852.

CHAPTER 268.

AN ACT to change the time of holding Justices' courts in the county of Bracken.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the time of holding the justices' courts for Bracken county shall be in the months of March, June, September, and December; and all process executed and returnable for February, shall stand for trial at the March term, as well as all causes heretofore docketed and continued.

Approved January 3, 1852.

CHAPTER 269.

AN ACT to enlarge Magistrates' and Constable's District No. 2, in Hopkins county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That magistrate's and constable's district and election precinct, No. 2, in Hopkins county, be changed and enlarged so as to include the following boundary: beginning on the Henderson road near the house of William Tompkins, and run a straight line to the house of Harvey Thomas, to include him; thence a straight line to the house of John Henson, to include him; thence a straight line to the residence of Thomas G. Yates, to include him; thence a straight line to the residence of James Kirkwood, jr., to include him; thence a straight line to the line of district No. 2, on big Greasy creek.

Approved January 3, 1852.

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CHAPTER 290.

AN ACT to incorporate the Franklin Female Institute.

Style of corporation.

Trustees; their powers.

Vacancies—how filled.

President.

May confer degrees.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an institution of learning be established in the county of Franklin, to be called and known by the name of the Franklin female institute; and that John H. Hanna, Thomas N. Lindsey, Charles S. Morehead, John N. Norton, Joseph G. Roberts, and John F. Lloyd, together with Francis Lloyd, principal of said institute, be and they are hereby constituted a body politic and corporate, to be known by the name and style of the trustees and principal of the Franklin female institute; and, by that name, to have perpetual succession, with power to sue and be sued, plead and be impleaded, to contract and be contracted with, to acquire, hold, and convey property, real, personal, and mixed; to have a common seal, with power to change the same at pleasure; and to perform all the acts which similar corporations may of right do.

§ 2. That the persons incorporated by this act, at their first meeting after its passage, shall choose from their own body, treasurer and secretary; and said persons shall have power to fill all vacancies occurring in their own body, or in said offices, and shall have power to make such rules and regulations as they may deem expedient for the conduct and government of said institute; and at all meetings of the board, a majority shall constitute a quorum for the transaction of business.

§ 3. That the principal of said institute shall be *ex officio* president of the board, and shall have the power, with the concurrence of one-half of the other members of the board, to appoint such professors, teachers, and assistants, as he may deem necessary for the instruction of the pupils in the various branches of a liberal education; to fix the salaries and modes of compensation of said professors, teachers, and assistants, and to remove them at pleasure.

§ 4. That the trustees and principal of said institute shall have the power, and they are hereby authorized to confer on such pupils in said institute as they may deem worthy, from time to time, any and all such literary honors and degrees and diplomas of graduation, in literature, science, and the arts, as are usually conferred on the highest female colleges and institutions of learning.

Approved January 3, 1852.

CHAPTER 291.

AN ACT to re-establish a portion of the line between the counties of Hickman and Graves.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Crawford Anderson, (and, in case

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he fails to act, William Thomas,) of the county of Graves, and Isaac Bugg, (and, in case he fails to act, Harkless Hays,) of the county of Hickman, be and they are hereby appointed commissioners to run and re-mark that portion of the county line between the counties of Hickman and Graves, lying between the southeast corner of Ballard county and northeast corner of section twenty-four, in township three, range two west. They must, on the first Monday in April, 1852, or as soon thereafter as practicable, call to their aid the county surveyor of the county of Hickman, or, if he cannot or does not act, the county surveyor of Graves to act, and shall procure a copy of the field notes of the surveyor who made the original survey of that part of the line; and, after they shall be first duly sworn by any officer authorized to administer oaths, shall hear the testimony of all witnesses introduced by any person interested, and shall, if possible, find the original range line dividing townships three, in ranges one and two west of the meridian. They shall begin on the county and range line at the before mentioned northeast corner of section twenty-four, and run and plainly mark the line in exact conformity (if possible) with the original range line from there to the southeast corner of Ballard county; and the line so run and marked shall be and remain the line between the counties of Hickman and Graves. The commissioners aforesaid shall report in detail, in the county courts of the counties of both Hickman and Graves, the manner in which they have discharged the duties imposed by this act, which report shall be recorded and be evidence of the line. They shall be entitled to one dollar and fifty cents for each day necessarily spent in performing the duties herein prescribed, and the surveyor three dollars for each day, to be paid one-half out of the county levy of the county of Graves and the other half out of the county levy of Hickman.

Commissioners;
their powers
and duties.

To make report.

The commissioners and surveyor, before proceeding to act, shall each take an oath faithfully, truly, and impartially to perform the duties herein prescribed.

Approved January 3, 1852.

CHAPTER 292.

AN ACT for the benefit of the Covington and Lexington Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Covington and Lexington railroad company may borrow money, on their credit, to the amount of two hundred thousand dollars, in addition to the amount heretofore authorized, at any rate of interest not exceeding seven per cent. per annum; and the said company may issue such evidences of such indebtedness as may

Company may
borrow money.

1852.

City of Covington to indorse bonds.

be deemed proper, and secure the same by giving a lien upon the property and assets of the company; and the said bonds or evidences of debt, the said company may sell at such rate of discount as they may choose, and at such places as to them may seem advisable.

§ 2. The city of Covington is hereby authorized to indorse the bonds of said company to an amount not exceeding two hundred thousand dollars; may loan the credit of the city to said company to that amount, in any other manner that said city shall determine: *Provided*, the qualified voters of said city shall consent to the same, either by petition or voting, at such times and places as the council may prescribe; and a majority of the votes cast shall be sufficient. Should any cause prevent a vote being taken at the time prescribed, or should the qualified voters fail to give their assent, then the council may direct another vote to be taken.

Approved January 3, 1852.

CHAPTER 293.

AN ACT to incorporate Pleasant Grove Division, No. 253, in Trimble county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the officers and members of Pleasant Grove division, No. 253, of the sons of temperance, in the county of Trimble, be and they are hereby constituted a body politic and corporate, by the corporate name of Pleasant Grove division, No. 253; and, by that name, may acquire and hold, for the purposes of their association, real and personal estate, such as they may deem necessary and suitable, not exceeding ten thousand dollars.

§ 2. Said division, by and in their corporate name, may contract, sue and be sued, and do all things necessary to the acquisition and preservation of their property. They may have a corporate seal, or use the private seal of their presiding officer for the time being, and make all such by-laws, not inconsistent with the laws of the land, as they may think proper. The contracts or conveyances of said division shall be signed by the worthy patriarch for the time being; and in any proceeding against said division, process shall be served on him.

Approved January 3, 1852.

CHAPTER 295.

AN ACT to authorize the County Court of Simpson to take and hold stock in a Railroad or Railroads.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Simp-

son county may, and it is hereby made lawful for said court, by the county judge thereof, to subscribe for stock in the Louisville and Nashville railroad company, or any railroad that may be located in said county, running through the town of Franklin, or near thereto.

§ 2. That before said county court shall be permitted to subscribe for stock, in the name of said county, it shall be the duty of said court to take the vote of said county, by advertising an election to be held by the sheriff of said county, at the different voting places for holding county and state elections in said county, giving at least sixty days notice thereof, to be posted up by the sheriff at every place of voting in said county; said notices shall state the amount of stock which the court may propose to take or subscribe for; and if a majority of all the qualified voters of said county shall be in favor of said subscription, then the county judge of said county court may, and it is hereby made his duty to make the necessary arrangements to carry into effect the will of the majority of said voters in said election; but if a majority of all the qualified voters of said county do not vote for the subscription, then the question as to the propriety of subscribing for stock, as provided for, shall not be again proposed by the court until after the expiration of three months, and it may then be re-submitted at the option of the court.

§ 3. That should said subscription of stock be authorized, as herein before provided for, then the said county court is hereby authorized and required, from time to time, to levy and collect a special tax upon all property in said county taxable by the revenue laws of this state, for the purpose of paying for stock so taken and subscribed in said Louisville and Nashville railroad company, or such other company as may locate or run a railroad through the county of Simpson, and through or near Franklin, according to the provisions of this act: *Provided, however*, that said tax shall not be for a greater amount than one-half of one per cent. in any one year.

§ 4. That the money herein provided to be raised shall be expended wholly within the county of Simpson.

§ 5. That the tax specified in the third section of this act, shall be assessed and collected by the county authorities of said county, in the same manner as county and state taxes are assessed and collected; the powers for assessment and collection that are vested in the county authorities for the assessment and collection of county and state taxes, shall be held and taken to extend to the assessment of this species of tax; and the bonds taken of the sheriff of said county, for the security of the collection and payment of county and state taxes, and to provide against the sheriff in the collection of the revenue and county levy, shall be deemed to embrace this special tax; and, for fur-

1852.

Powers of the county judge.

Conditions of subscription.

Duty of county court.

Where funds to be expended.

Collection of tax.

1852.

ther security, the said county court may require the sheriff to give additional or enlarged bonds, to cover this special railroad tax.

Payment of tax

§ 6. That the tax collected under this act shall be paid directly to the treasurer of the Louisville and Nashville railroad, or the treasurer of such other railroad as may be located in said county, as required in a foregoing chapter, whose receipts for such amount shall be a good voucher to the collecting officer in his settlement with the county court, after deducting four per cent. for the fees and cost of collecting. Defaulting tax payers and defaulting collectors of said tax shall be proceeded against in the same manner as such defaulters are proceeded against for default in regard to state and county taxes.

For whose benefit.

Duty of sheriff.

§ 7. That the stock subscribed, as provided for in the foregoing sections of this act, shall enure to, and be for the use and benefit of the several tax payers of said county; and, in order to more fully carry out this intention, the sheriff of Simpson county shall record in a well bound book the names of all the tax payers, under the provisions of this act, with the amount of the respective payments, the dates thereof, and the numbers of the certificate hereinafter provided to be given by him to each tax payer; said book shall be preserved in the office of the clerk of the Simpson county court, and it shall be his duty, annually, to furnish a copy of the entries in said book to the Louisville and Nashville railroad company, or such other company as may run through said county of Simpson; and whenever any tax payer or payers shall pay the amount of tax assessed upon him, her, or them, to the proper officer, under the provisions of this act, he, she, or they shall receive from such officer a printed certificate, stating the amount so paid, with the date thereof, signed and numbered by said officer; and the holder of said certificate shall be authorized to sell and transfer the same by assignment; and whenever any person or persons or corporations shall hold certificates, either as tax payers or as assignees of tax payers, amounting to a share, he, she, or they shall be entitled to a certificate from the authorized agent or agents of said railroad company, for one share of stock in said company, and so for every share in amount which he, she, or they may hold as aforesaid.

Certificates transferable.

Approved January 3, 1852.

CHAPTER 296.

AN ACT to amend an act, entitled, an act to establish the town of Brooklyn, in Campbell county, approved February 27, 1849.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky, That on the first Monday in March,*

hereafter, in each and every year, the free white male inhabitants of the town of Brooklyn, in Campbell county, over the age of twenty-one years, who are citizens of the United States, and residents of said town, shall meet at such place in said town as the board of president and trustees may direct, and proceed to elect five fit persons for trustees of said town; and it shall be the duty of the present trustees, and their successors in office, previous to said election, to appoint three suitable persons in said town as inspectors of elections, who shall be, or a majority of them, authorized and directed to hold the said election on the day by this act prescribed, commencing by the hour of nine o'clock A. M., of said day, and continue the election open until six o'clock P. M., and in all other respects to govern the said election in the same manner as other elections in this state are conducted. Notice of the time and place of holding the election in said town shall be published in one or more of the newspapers of said county, or be posted up at two or more public places in said town, at least five days before said election, which notice shall be signed by the clerk of the board of trustees. On the closing of the polls at the hour above mentioned, the said inspectors shall declare the same; and the five persons having the highest number of legal votes shall be declared duly elected trustees of said town for one year from the time of their election, and until their successors shall be elected and sworn into office; and the trustees thus elected shall be notified thereof immediately by the clerk of said board of trustees. The vote given for trustees shall be added up by the inspectors of election, and be returned by them to the clerk of the board of trustees, and shall be certified by a majority of said inspectors, and sworn to as just and true returns of the election, which oath may be administered by any judge or justice of the peace for said county. The returns of the vote, so made, shall be by the clerk carefully filed away with the papers of said town.

§ 2. That the trustees, so elected as aforesaid, shall enter upon the duties of their offices on the Thursday succeeding the first Monday in March, in the year in which they are elected; but before they enter upon the duties of their office, they shall be sworn to support the constitution of the United States and of this state, and that they will well and truly discharge the duties of trustees of said town, which oath may be administered by any judge or justice of the peace for Campbell county, and an entry shall be made on the journal or records of the said board of president and trustees, by the clerk of the board, that said oath has been duly administered.

§ 3. That the trustees, thus elected and qualified, shall form and constitute the board of president and trustees of the town of Brooklyn, and they shall sit and act together

1852.

Election of trustees.

Inspectors of election.

Who trustees.

Duties, &c., of trustees.

Board of trustees.

1852.

President.

Clerk and his duties.

Compensation of officers.

Quorum.

Powers of officers.

as one body; the said trustees shall elect, at their first meeting after their said election, one of their own body as president, who shall preside over the deliberations of said board during their terms of office; and in case of said president's absence at any meeting of said board, the trustees present shall elect a president *pro tem*. The said board of president and trustees shall also, at their first regular meeting, elect a clerk, who shall be sworn to the faithful discharge of the duties of his office, which he shall hold for one year and until another shall succeed him, removable, however, at the pleasure of the board of president and trustees; and he shall be denominated the clerk of the town. It shall be the duty of said clerk to keep a journal or record of the proceedings of said board of president and trustees; he shall sign all orders by them issued, and all by-laws and ordinances by them passed, and do all other acts that may be reasonably required of him; he shall deliver over all books and papers entrusted to him to his successor in office, immediately on his successor's being elected and qualified, or whenever he shall be thereunto required by the said board; said clerk shall be allowed such salary or fees for his services, and no more, as the said board of president and trustees shall, from time to time, fix or allow. In all meetings of said board, two trustees with the president, or, in his absence, three trustees, shall form a quorum to do business; but in levying the taxes, or in the election of any officer of the town, or in passing any by-law or ordinance, four trustees shall be present, three of whom shall concur: *Provided, however*, that the quorum shall have the power to compel the attendance of absent members, under such rules as may be prescribed by an order of said board. The said board shall meet at such time and place as they may appoint in said town, but their acts and deliberations shall be public; and the records of said board of president and trustees shall be public records, and, when duly copied and certified by the clerk of said town, shall be read as evidence in any suit or proceeding at law or equity, in any of the courts of this commonwealth.

§ 4. That the said board of president and trustees shall have and possess all the rights, powers, and authority heretofore vested in the trustees of the town of Brooklyn, by either the general laws of this state or the special laws now in force in respect to said town, except so far as the same may be altered by this act; and they shall have full power and authority to pass such by-laws and ordinances for the government of said town, with adequate penalties thereto, as they shall from time to time deem expedient, not contrary to the constitution or laws of this state or of the United States; which said penalties or fines, for the breach or violation of any of said by-laws or ordinances,

1852.

may be enforced and collected, before any justice of the peace of Campbell county, in the same manner that fines and penalties are now enforced and collected before justices of the peace, under the laws of this commonwealth, except that all warrants or other process issued by any justice of the peace of said county, under or by authority of any of said by-laws or ordinances, shall run in the name of the town of Brooklyn, and be directed to any constable of Campbell county; and the constable to whom the same may be delivered shall proceed to execute said warrant or other process, in the same manner as though it had been issued under and by the authority of the penal laws of this commonwealth, with like penalties for a failure or refusal to execute and return the same; and said fines or penalties, when collected as aforesaid, shall be paid to the treasurer of said town, and shall be appropriated by the said board of president and trustees for the benefit and maintenance of the common schools that are or may hereafter be established in said town.

§ 5. That said board of president and trustees shall also have power and authority to levy and collect taxes on all real estate in said town, which shall be uniform; but said tax shall not exceed forty cents, annually, on each one hundred dollars worth of said real estate valued or assessed: *Provided*, that they shall only tax such real estate as is now subject to taxation by the revenue laws of this state. They shall have power to levy and collect a tax upon dogs in said town; and it shall be the duty of said board of president and trustees, within two weeks after their election, to appoint some suitable person, who shall be an owner of real estate in said town, and a resident thereof at the time of his appointment, as assessor; which assessor, being so appointed, shall take the following oath before a judge or justice of the peace for said county, to-wit: I, A. B., do solemnly swear or affirm, (as the case may be,) that I will fairly and impartially assess the valuation of all the real estate subject to taxation within the town of Brooklyn, coming within my knowledge, according to the best of my skill and ability; and thereupon it shall be the duty of said assessor to proceed immediately to assess and value all the real estate in said town subject to taxation, making out a fair list thereof, in which he shall specify the names of the owner or owners, if known, and if not known, so state or list the same, together with the number of the lots, and value of the same; and said assessor shall, at the same time, list the names of all persons subject to pay a poll tax to said town, the correctness of which list shall be certified by said assessor, and delivered to the board of president and trustees within twenty days after his qualification as assessor; who shall be allowed by the said board what they may deem a fair compensation for his services.

Tax.

Assessor of tax.

Oath of assessor.

To certify correctness.

1852.

Duty of clerk
of town.Collector; his
duties and pow-
ers.

§ 8. That it shall be the duty of the said board of president and trustees to apportion and levy the tax upon the property so assessed, and also levy the poll tax, and cause the clerk of said town to make out a fair copy of the list of assessment and polls so returned by the assessor, annexing to each lot and part of lot the amount of tax levied and to be paid thereon; also, the amount of poll tax to be paid by each person so listed and returned; and to deliver the same to a collector, by them to be appointed, who is hereby authorized to collect the same, together with any dog tax that may be levied by said board; and upon failure or refusal of any person to pay their poll tax and dog tax, levied as aforesaid, the said collector shall proceed to collect the said last mentioned taxes in the same manner, and shall have the same power to collect said poll tax and dog tax, that the sheriffs of this commonwealth have to collect the county levies or capitation tax. And upon failure or refusal of any owner or owners of any lot or part of lot, in said town, to pay the tax assessed or levied thereon, by the first day of August succeeding, it shall be the duty of the collector to make out a notice, accompanied by a fair list of the lots and parts of lots upon which the tax so remains unpaid, and cause it to be published at least three weeks in some newspaper of Campbell county, or have the same printed in the form of handbills, and post up the same at three of the most public places in said town for the length of time aforesaid, which notice and list shall set forth the number of the lot or part of lot, and the amount of tax due thereon, together with the names of the owner or owners, if known, and the year or years for which the said tax is due; and that upon a failure to pay the tax and costs of publication, before the first Monday in October succeeding, that said collector will proceed to sell the same, (at some public place in said town to be named in said notice,) the said lots or parts of lots, or so much of each as may be sufficient to satisfy the tax and costs on the same. And it shall be the duty of said collector, upon the failure of the owner or owners of said lot or part of lot to pay the tax and costs, to make such sale, at the time and place stated in said notice, between the hour of ten o'clock in the morning and four o'clock in the evening of the said first Monday in October, to the bidder who will take the smallest quantity of such lots or parts of lots, and pay the tax and costs, in cash; and to make report thereof to the said board of president and trustees at their next regular meeting thereafter, which report shall be entered upon the records of said town; and it shall be the duty of said board, at any time after the expiration of one year from the day of such sale, to make a conveyance to the purchaser, his heirs or assigns, of the property by him purchased at such sale; which deed of conveyance shall pass all the estate, legal or equitable, of

the owner or owners of any such lot or part of lot, whether known or unknown: *Provided, however,* that the owner or owners of such lot or part of lot shall have a right to redeem the same within two years after such sale, by paying to the board of president and trustees of said town the amount for which the same was sold, with one hundred per cent. damages thereon, which by the said board shall be paid over to the purchaser, his executor, administrator, or assigns; and such redemption shall be noted and entered on the books of said board of president and trustees.

1852.

Right to redeem.

§ 7. That all infants, *femes covert*, and persons of unsound mind, shall have two years from the time their respective disabilities shall have been removed, to redeem their lands or lots, sold under the provisions of this act, upon paying the same amounts required to be paid by other owners of lots, by the sixth section of this.

Limit of redemption.

§ 8. That from and after the passage of this act, the present collector of said town of Brooklyn shall have power to collect any taxes that may be due and owing said town, under the act to which this is an amendment, for the years 1850 and 1851, in the same manner that the sheriffs of this state are authorized to collect the county levies.

Who collects.

§ 9. That the said board of president and trustees shall, in each and every year, appoint some suitable person as treasurer of said town, to whom the said collector shall pay all sums of money by him collected, belonging to said town, and take said treasurer's receipt therefor; the said treasurer shall hold said moneys subject to the order of the said board of president and trustees; and the said collector and treasurer, before entering upon the duties of their respective offices, shall each execute bond to the said board of president and trustees, with good and sufficient securities, for the faithful performance of the duties of their said offices, with such penalties thereto as the said board may require; and it shall be the duty of said board, at least once in each and every year, to cause said collector and treasurer to settle their accounts with said board of president and trustees; which settlements, when made, shall be filed with the papers of said town. And said board shall have power to contract for the grading and paving the streets, and to construct and keep in repair wharfs and landings in front of said town, at such times and in such manner as said board may deem best for the interest and improvement of said town. If any vacancy, from any cause, shall occur in the office of trustee of said town, it shall be the duty of said board to order an election to fill such vacancy, immediately, which election shall be held at such place in said town, and at such times as said board may direct.

Treasurer; his duties, &c.

Vacancy; how filled.

§ 10. That, hereafter, the corporate name of said trustees shall be the board of president and trustees of the town of Brooklyn; and, in that name and style, they may

Style of corporation.

1852.

sue and be sued, plead and be impleaded in any of the courts of this commonwealth, contract and be contracted with, and do all other acts which may be necessary to carry into execution the provisions of this act: *Provided*, the same shall not be contrary to the constitution and laws of this state or of the United States.

§ 11. That all acts or parts of acts contrary to the provisions of this act, so far as they apply to the said town of Brooklyn, be and the same are hereby repealed.

Approved January 3, 1852.

CHAPTER 297.

AN ACT to authorize the county of Graves to hold Railroad stock.

Condition of
holding stock.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county of Graves be and is hereby authorized to take and hold stock in the Mobile and Ohio, Charleston and Nashville, New Orleans, Jackson, and Northern, or any other railroad from the south terminating upon the Ohio or Mississippi river, to an amount not exceeding one hundred thousand dollars. But no stock is to be taken in any road that does not pass nearly centrally through said county.

Judge county
court may order
election.

§ 2. For the purpose of ascertaining the wishes of the citizens of said county upon the subject, it shall be lawful for the county judge thereof to order an election to be held, on such day as he may designate, at all the places of voting established by law in said county, which election shall in all respects be governed by and conducted according to the general election laws of this commonwealth, so far as they are applicable; and for this purpose, one column only shall be opened. The question "are you for the railroad?" shall be distinctly propounded to each voter. If the answer be in the affirmative, his vote shall be recorded; if otherwise, it shall not.

Counting votes.

§ 3. The poll books of each precinct shall be immediately delivered to the clerk of the county court, and on the third day after the election, in the presence of the clerks of the county and circuit courts, shall be opened, and the votes counted by the county judge. If a majority of all the legal voters in said county shall have voted for the railroad, then and in that event only it shall be lawful, for and on behalf of the county, to subscribe for and take stock as above provided in section two of this act; and for this purpose he shall issue, in such manner, and to such persons as will best promote the interests thereof, the bonds of the county, payable in thirty years, bearing a rate of interest not exceeding six per cent. per annum.

Duty of the
county court.

§ 4. The county court of said county shall, as soon as practicable after the issuing of the bonds of the county, as

above provided, proceed to lay such tax on all the property in said county, including every item taxed by the revenue laws of this commonwealth, as shall be sufficient to pay the interest on the bonds issued, as the same shall become due

1852.

§ 5. The sheriff of said county shall execute, with good security, an additional bond, conditioned for the faithful collection and payment, to the proper person or persons, all moneys collected under the provisions of this act, and shall collect and pay over all taxes laid under the same, at the same time and in the same manner that the revenue taxes of this commonwealth are collected and accounted for; and may be proceeded against for all moneys so collected, by motions before the county judge of Graves county, who is hereby authorized to adjudicate upon the same, in the same manner that defaulting sheriffs are now liable to be proceeded against for the revenues of this commonwealth, in the Franklin circuit court.

Duty of sheriff.

§ 6. All taxes levied under the provisions of this act shall be sacredly applied to the payment of the interest that may accrue upon the bonds of the county, and to no other purpose whatever; and the sheriff shall pay out the same only upon the orders of the county court, which orders the court is hereby directed to make in due time, certifying that the money is due to the person for whose benefit the order is made, for interest upon the bonds of the county, issued in accordance with the provisions of this act.

Application of tax.

Approved January 3, 1852.

CHAPTER 238.

AN ACT for the benefit of Common School District No. 34, at Petersburg.

WHEREAS, a petition has been presented to this legislature, praying the passage of an act authorizing the collection of a tax of fifteen hundred dollars in common school district No. 34, for the purpose of erecting a school house, therein, and as is represented, the petition is signed by nearly all the tax payers in said district, said district being that including the town of Petersburg, in Boone county. Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a poll tax of fifty cents on each and every poll subject to county levy, and a tax on the *ad valorem* valuation of property, which, together with said poll tax, may be sufficient to raise the sum of fifteen hundred dollars, in the year 1852, shall be collected for the purpose of building a school house in said district, for common school purposes; and the district is hereby changed so as to include the residence of John H. Walton.

Assessment of tax.

§ 2. It shall be the duty of the county assessor, or his

1852.

Duty of county
assessor. 3

deputy, for the year 1852, whilst assessing the property in said district for revenue, to enter, in a book prepared by him, all property and polls subject to tax, in the same manner that he enters it in his revenue book; which district book he shall return to the county court clerk's office at the same time that he returns the revenue book.

Duty of county
court clerk.

§ 3. The county court clerk shall copy said commissioner's district book into the latter part of the book he is required to make for the sheriff in 1852, and also furnish the trustees of said common school district with a certified copy of said district book; and said trustees, for the time being, shall, when furnished with said book, ascertain the per cent. *ad valorem*, necessary on said valuation, which, together with the poll tax, to raise the sum of fifteen hundred dollars: and they shall certify said rate of tax to the sheriff for 1852, whose duty it shall be to collect said tax and account for the same; in his official capacity, as he is bound to account for the county levy. Said sheriff shall have the same power to collect and distrain for said school tax that he has for other taxes.

Duty of trustees.

May obtain
right to property

§ 4. The trustees of said district for the year 1852, may, in anticipation of said fund, contract for the building a convenient, substantial, and permanent school house of brick, upon the public ground in the town of Petersburg, for common school purposes; and, if necessary, may obtain a conveyance of a portion of said public ground for the purposes aforesaid, to them and their successors in office.

When sheriff
to pay over tax.

§ 5. The school tax to be collected in said district for the year 1852, shall be due from the sheriff on the first day of January, eighteen hundred and fifty-three; and the trustees of said district shall have authority to receive the same, and receipt to the sheriff therefor; and they shall appoint one or more of their body to settle with the sheriff in regard to said tax; and they shall allow him, as delinquent, such as cannot be collected, and also allow him three per cent. on amount collected, and pay to the assessor four cents per list for assessing said property, and pay the county court clerk a fair compensation for the services to be performed by him.

Allowance to
sheriff.

Trustees may
use materials of
old house.

§ 6. The trustees are hereby authorized to make use of the materials in the present school house on said public ground, in Petersburg, in erecting the school house which they are authorized to build by this act. And said trustees are required to keep a record of all their acts and doings.

May sell and
convey land.

§ 7. The trustees of the town of Petersburg may sell and convey to the trustees of said common school district, and their successors in office, as much of the aforesaid public ground, in the town of Petersburg, as may be thought necessary for a site for said common school buildings, not exceeding the one-half of the same.

Approved January 3, 1852.

CHAPTER 299.

1852.

AN ACT supplemental to an act, entitled, an act to amend an act to charter the Louisville and Nashville Railroad Company, approved March 5, 1850, and for other purposes.

WHEREAS, it is represented to the present general assembly, that at an election held in the county of Green on the 22nd day of November in the present year, by the qualified voters therein, upon the question of subscribing, upon the part of said county, the sum of one hundred thousand dollars to the capital stock of the Louisville and Nashville railroad company, a majority of the votes cast was in favor of the subscription to the amount aforesaid, upon condition that said railroad shall be established so as to cross Green river at or near the mouth of Little Barren river; and whereas, it is desired by said county that the county court thereof be vested with power and authority to carry out the intention of said county, as contemplated and set out in the terms submitted to the voters therein upon the question of said subscription. Wherefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the judge of the Green county court, at the January, February, or March term thereof, in the year 1852, unless the same shall have already been done, to cause to be spread upon the records of said court the number of votes cast for and the number against the subscription of said one hundred thousand dollars, mentioned in the preamble hereof; and shall cause an order to be made directing the clerk of said court, for and on behalf of said county of Green, to subscribe to the capital stock of said Louisville and Nashville railroad company the sum of one hundred thousand dollars, the one half thereof to be payable in cash, in four equal annual installments, and the other half payable in the bond or bonds of the said county of Green, to be due one twenty years after the date thereof, bearing interest at the rate of six per cent. per annum, payable yearly, upon condition that said railroad be located or established so as to cross Green river at or near the mouth of Little Barren river.

§ 2. That when said railroad shall be established as above mentioned, and when the county court of Green shall be notified thereof by the president, or any one else authorized by said railroad company, it shall be the duty of the said Green county court to enter up an order that the sum of fifty thousand dollars shall be assessed upon the property of the citizens of said county, which by the laws of this state are taxable for revenue purposes, to be collected in four equal annual installments. Said court may make all reasonable allowances in said assessments, for delinquents and insolvents, and shall be governed by the commissioner's book returned for said county as to the property to be taxed. That for the remaining fifty thousand dollars, a

Duty of judge
county court.

Duty of clerk.

Payments.

Duty of Green
county court.

Commissioner's
book to govern
assessed property
to be taxed.

1852.

bond or bonds shall be issued, in the name of the county of Green, signed by the presiding judge of said county court, and countersigned by the clerk thereof, with the seal of his office annexed, payable to the said Louisville and Nashville railroad company in twenty years from the date, with interest thereon at the rate of six per cent. per annum, payable yearly or half yearly, in such manner and at such times and places as said railroad company may direct; and for the payment of which bonds and interest it shall be the duty of said county court to levy a tax, in such manner and at such times as may be necessary, upon the taxable property of the citizens of said county, as may be sufficient to meet the interest and pay the principal at maturity: *Provided*, that the dividends arising from such stock held by said county in said railroad, shall be applied first to the payment of the interest on said bonds, and when a surplus shall accrue, if any, after paying the said interest, it shall be applied to the purchase and extinguishment of said bonds, if they can be purchased at par or for less; if not, then said surplus shall be vested by the said county court in some profitable stock, and in such manner as it may be drawn when called for, without delay.

Sheriff to be
collector,

§ 3. That the sheriff of the county of Green shall collect all the taxes and assessments levied by this act, and shall in all respects be vested with the same power to distrain and sell property which he has by the laws governing the collection of state revenue. He shall execute bond with ~~security~~, in the said county court, to be approved of by said court, in an amount at least equal to the sum expected to be collected in any one year, payable to the county of Green, conditioned to account for and pay over all such sums as he may collect, or come to his hands for taxes or levies, under this act, in such manner and at such times as the said county court may direct; and he shall be allowed, for his services herein, a sum not exceeding three per cent. upon the amount collected by him. He may return a list of insolvents or delinquents to the county court at the October term in each year, and, if the same is approved by the court, shall be placed to his credit; and for such insolvents the court may proceed to make an additional levy to supply the deficiency. That for any failure, on the part of the sheriff, to perform the duties enjoined by this act, he and his securities shall be jointly and severally liable, by suit in the name of Green county, upon said bond, or by motion in the circuit court of Green county, upon ten days notice, for all damages and cost by reason of such failure; which suit or motion it shall be the duty of the county attorney of said county to institute and prosecute.

Certificate of
stock.

§ 4. That all persons paying taxes under this act shall receive from the sheriff, (who is hereby required to give the same,) a certificate of the amount so paid, as railroad tax,

which certificate shall be assignable; and any person procuring and holding such certificates to an amount equal to one share of stock in said railroad company, or any greater number of shares, shall, upon the tender of such certificates to the president of said railroad company, be entitled to have the proper certificate of stock issued to him by said railroad company, according to such terms as said company may prescribe.

1899.

§ 5. That it shall be the duty of the county court clerk of said county of Green to make out and deliver to the sheriff of said county, in a reasonable time after the court shall order him so to do, a list of all the tax payers and their taxable property, to be made out from the commissioners' book, and, also, a list of all those who have subscribed individually for stock in said railroad company, for which service the said court shall allow the said clerk a reasonable compensation out of the county levy.

Duty of clerk.

§ 6. That when the bond or bonds mentioned in this act are issued, it shall be the duty of the court to enter upon the records thereof a particular description of said bond or bonds, as to number, amount, date, when and where payable, &c.; and it shall be the duty of said county court of Green to order and direct the payment of the calls, from time to time, as they may be made by said railroad company, as well as the interest on said bonds; and for the purpose of carrying into effect this act, the county court of Green may and it is hereby authorized to sit at any and all times, without regard to the regular terms, and may at any time make any and all orders necessary and proper to carry into effect this act.

Duty of court in relation to records.

§ 7. That the said county court of Green shall, for and on behalf of said county, appoint some suitable person to cast the vote for such county at all elections and meetings of said railroad company; which appointment, when made, shall be entered of record in said court, and a certificate given to the person so appointed; said court may also, in its discretion, if it is thought advisable so to do, appoint a collector of the tax levied by this act, and may take from him bond and security, prescribe his duties, and fix his compensation.

Power to cast vote of county.

§ 8. That nothing in this act shall authorize the levying or collecting tax from any person or persons or corporation in said county of Green, who, before said levy and assignment has been made by said court, has subscribed stock in said railroad company to any amount greater than his, or her, or their tax would be.

§ 9. That should the said Louisville and Nashville railroad be not established or located so as to cross Green river at or near the mouth of Little Barren river, as contemplated by the said county of Green, then and in that event the amount mentioned in this act, designed and in-

Restrictions touching subscriptions.

1852.

tended to be vested in and subscribed as part of the capital stock in the said Louisville and Nashville railroad company, may, in the discretion of said county court of Green, be vested in and subscribed, on behalf of said county, as stock in the Lexington and Danville railroad company, now in contemplation to be incorporated, or in any railroad company which now or may hereafter be incorporated in this commonwealth: *Provided*, that in no event shall any subscription be made or stock taken by said county court in any railroad company, unless said roads shall be established so as to pass through Green county. And said court shall and is hereby vested with full power to carry into effect this act, subject to its provisions, and to apply the same to any such roads as mentioned in this section, in the same manner as was intended to be applied to the said Louisville and Nashville railroad.

Approved January 7, 1852.

CHAPTER 300.

AN ACT for the benefit of School Districts Nos. 28 and 29, in Mercer county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the female scholars within the ages fixed by the school law of this commonwealth, residing within school districts Nos. 28 and 29, aforesaid, in the title hereof, may hereafter be taught in and at the school house in district No. 28; and that all the male scholars within the school ages, residing within said districts, may be taught in and at the school house in district No. 29; *Provided, however*, the tuition fees of all scholars taught in district 28 shall be paid to the trustees of said district, and the tuition fees of all those taught in No. 29, shall be paid to the trustees of the latter district: *Provided, however*, the consent of the trustees of each of the aforesaid districts and of the school commissioners of said county be first had and obtained to the arrangement of the schools herein before mentioned; it being the object hereof to have all the females resident in said districts to be taught in and at one school, and of the males at another and different one.

Approved January 7, 1852.

CHAPTER 301.

AN ACT to incorporate the Frankfort and Midway Turnpike Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company be and the same is hereby incorporated to construct a turnpike road from the city of Frankfort, leaving the old Cole's road as near

this of road

as may be found advisable, to intersect the Versailles and Georgetown turnpike roads near Midway, in Woodford county.

1852.

§ 2. The capital stock of said company shall be twenty-five thousand dollars, divided into shares of one hundred dollars each; and subscriptions may be taken by each of the commissioners named hereafter, for two years after the passage of this act, unless the whole amount shall be sooner taken; and the city authorities of Frankfort, and the trustees of the town of Midway, and the county courts of Woodford and Franklin counties, may subscribe stock in said road, being first authorized so to do by a vote of a majority of the voters of such city, town, or counties, at any election to be held therein, at such times as the county courts, city authorities, or town trustees may order: *Provided, however,* that for any stock thus subscribed, the said county court, city authorities, or town trustees, at the time of making the subscription, shall assess a sufficient tax to pay the same.

Capital stock

Counties may
subscribe stock.

§ 3. The following persons are hereby appointed commissioners to perform the duties required herein: In the county of Franklin, Jacob Swigert, Jas. D. Brown, George Scott, and S. F. J. Trabue; and in the county of Woodford, William S. Buford, David C. Humphreys, and Joel Scott, any one of whom may receive subscriptions, and keep books open until the full amount of stock shall be taken to organize said company. Notice of the opening of the books shall be given in some public newspaper in Frankfort, and also at the courthouse doors in the town of Versailles and city of Frankfort, for at least one month before the books are opened. When five thousand dollars shall be subscribed, the commissioners, or a majority of them, shall give two weeks notice of the time and place when an election shall be held for a president and directors of said road, which election shall be held, and the voting be regulated by the rules allowing elections for president and directors to be held in the Lexington, Versailles, and Frankfort turnpike company; and when the election is held, the president and directors, thus elected, who shall be five in number, shall thereafter conduct and manage the affairs of said company, under the style and name of the Frankfort and Midway turnpike company; by which name they may sue and be sued, contract and be contracted with, and they may receive further subscriptions until all their stock is taken.

Commissioners.

Books to be
opened.

§ 4. The said company, as to the right of way and any lands necessary for said road, may purchase or receive relinquishments of the necessary lands, not exceeding sixty feet in width, and also for as much material, or lands from which to procure materials, as may be necessary to make said road; and when the rights of way or for materials

Right of way.

1852.

Hands exempt
from working
on roads.

Rates of toll.

Corporate
powers.

cannot be obtained by contract, the same may be condemned under the provisions of the general law.

§ 5. For each share of stock subscribed by any person or persons whose hands are required to work on the present road leading from Frankfort to Midway, they shall have one hand exempted from working on any other road; and when five miles of said road shall be completed, the said company may construct and erect a turnpike gate, and for each mile of road made thereafter, they may charge toll proportionably, and they may have gates at each five miles, or charge tolls for each five miles their road shall be traveled, should they find it necessary to locate gates at shorter distances than five miles, or a less number than one each five miles.

§ 6. The said company shall have the same powers and authorities, and be liable to the same fines and penalties now affixed by the several laws creating and regulating the Lexington, Versailles, and Frankfort turnpike company, or the Versailles and Midway turnpike road company; and they shall have the right to charge the same tolls.

§ 7. The metallic part of said road shall be not less than twelve feet wide, and shall be made at such grade as the said company may prescribe.

Approved January 7, 1852.

CHAPTER 302.

AN ACT to authorize the County Court of Daviess county, and other counties so disposed, to subscribe stock in the Louisville and Mississippi Railroad Company, and in the Louisville and Nashville Railroad Company.

Duty of sheriff.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the sheriff of Daviess county, and the other proper officers for holding elections in said county, on the first Monday in August next, to open columns in their several poll books, for the purpose of submitting to the legal voters of said county the question whether or not they will submit to an *ad valorem* tax not exceeding two-fifths of one per cent. per annum on the property of said county, and the additional lists under the equalization law, now subject to taxation by law, for the purpose of raising a fund to assist in the construction of a railroad within the limits of said county, to be a portion of either of the railroads aforesaid.

Of the clerk of
election.

§ 2. When any legal voter shall present himself at the polls, at said election, and claims the right of suffrage, it shall be the duty of the clerk of the election to put the question separately and distinctly, to such voter, "do you vote for or against the railroad tax?" and when any voter

shall vote upon said question, his vote shall be properly recorded by the clerk.

1852.

§ 8. Upon a comparison of the polls, as provided for by law, it shall be the duty of the several officers comparing them to certify the said comparison to the county court of said county, at its next session. And if it shall appear to the court that a majority of all the votes cast in said county is in favor of the imposition of said tax, an order shall then be entered up by said court, directing the collector of revenue in said county to collect an *ad valorem* tax from the citizens and property holders of said county, of two-fifths of one per cent. per annum for the term of five years; commencing with and including the year 1853.

Duty of officers of election and clerk of court.

§ 4. If the imposition of said tax is demanded by a majority of the voters of said county, it shall be the duty of the county court to subscribe for stock in said railroad company, or either of them, to an amount not exceeding the sum which would be the principal that such tax would pay the interest on, according to the amount of revenue paid in by said county during the year 1852, with a condition that no further responsibility shall attach to such subscription than the tax aforesaid, for five years, together with the stock which may be purchased or subscribed for by said county court; said tax to be deposited in the branch of the southern bank of Kentucky, at Owensboro', subject to the check of the judge of the county court aforesaid, conjointly with the president of said branch bank, in favor of the treasurer of either of said railroads which may pass through Daviess county, according to charters which are now granted, or may be hereafter granted, and upon an order in favor of said treasurer, made by the president and directors of said road or roads, accompanied by a certificate from at least three of the commissioners hereinafter named, that the conditions of the subscription have been complied with. The conditions of said subscription are, that an order of the president and directors of said road or roads shall be entered up that the amount of subscription by the county of Daviess shall be applied, first, to the construction of so much of said road or roads as may be between the towns of Owensboro' and Rumsey, and the balance as said president and directors may deem advisable.

County court to subscribe for stock; payment.

§ 5. It shall be the duty of the collectors of the revenue tax, in said county of Daviess, to give to each tax payer of said railroad tax a separate receipt for the amount of his tax, setting out the valuation of such tax payer's property, and the amount of his railroad tax; which receipt shall be transferable by written assignment, and the owner of said receipt shall be entitled, to the extent thereof, to a proportion of the stock owned by said county in said railroad company, equal to the proportion of said receipt to the whole amount of railroad tax paid; and where any per-

Duty of collectors of tax.

1852:

son shall present to said county court receipts to an amount equal to one share or more of stock, said court shall give him a new certificate, specifying the extent of his interest, and shall order stock to that amount to be transferred to him, and to stand in his name.

Loans.

§ 6. That the said county may obtain a loan, upon a credit not exceeding thirty years, by issuing the bonds of said county for any part or all of said sums; which bonds shall be executed by the presiding judge of the county court, to which the county seal shall be attached, and attested by the clerk of the county court. Such bond or bonds shall bear an interest of six per cent. per annum; and for the payment of which the railroad tax aforesaid shall stand pledged, first, to pay the interest and then with any overplus to redeem the principal; and, in addition thereto, the stock purchased by the said bonds, or subscribed for by said county court, shall also be pledged for the payment of said bonds.

§ 7. Should the installments upon said railroad stock be so demanded as to postpone the payment of a portion of said stock one or more years, then the tax to be levied may be made to correspond therewith, being only sufficient, and amply sufficient, to pay the interest for the time being on the sums to be borrowed to pay such installments as they become due.

Where bonds payable.

§ 8. Said bonds, and the interest thereon, may, if deemed advisable, be made payable either in Kentucky at any designated point, or in the city of New York, as the commissioners hereinafter named, or their successors, may deem best.

Commissioners.

§ 9. Junius B. Alexander, Harvey Blair, Geo. W. Triplett, Samuel M. Wing, Philip Triplett, John Combe, and Robert Triplett, or any four of them who may act, are hereby appointed to receive the bonds aforesaid and transfer them to such person or persons as may be willing to buy them for the best price to be obtained, the consideration therefor to be paid into the branch of the southern bank at Owensboro', and subject to be checked for as hereinafter stipulated; and the said commissioners, or any four of them, may appoint any trustworthy agent to dispose of said bonds, with proper limitations, and on condition that the consideration receivable shall be deposited as aforesaid.

Vacancy—how filled.

§ 10. Should any of the aforesaid commissioners die, fail, or refuse to act, the balance or survivors may fill the vacancy by electing some other person or persons.

May construct part of road.

§ 11. Should the voters of Daviess county determine to tax themselves to make a part of the road or roads aforesaid, and the balance of the stock should not be made up, then and in that case the said county may appropriate the funds so raised or to be raised in constructing; if the judge

1852.

of the county court and commissioners aforesaid deem it advisable, they may appropriate the same to constructing that part of the road between Owensboro' and Ramsey, and to continuing the same as far as their means will allow, under the organization of a local directory, and with the powers, privileges, and immunities as provided for by the charter of the Louisville and Mississippi railroad company; in which event the directory shall be voted for by the stockholders annually, on the first Monday in August, the votes to count in proportion to the stock held; and the commissioners aforesaid, or their successors, shall act until other directors are elected.

§ 12. In case any other county or counties shall be disposed to continue with the county of Daviess in making a portion of said road or roads, such county or counties are hereby empowered to do so, and with all the powers hereby granted to the county of Daviess; the county court of such county or counties being hereby authorized to appoint commissioners, five or more, to act with those of Daviess; and to agree upon the conditions of a common board of directors for the management of the joint business of the combined counties.

Powers delegated to other counties.

§ 13. In the event of making a portion of the road only, either by one county or more, the local directors hereby provided for shall have all the powers given by the charter of the Louisville and Mississippi railroad company.

Powers conferred.

§ 14. Private subscriptions may be received in aid of the county railroad tax, and for so much stock shall be issued, so far as paid in, without any lien thereon to secure the county debt or bonds.

Private subscriptions.

Approved January 7, 1852.

CHAPTER 303.

AN ACT to amend an act, entitled, an act to charter the town of Simpsonville, in Shelby county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the town of Simpsonville, in the county of Shelby, as laid off and described in a plat now of record in the office of the clerk of the Shelby county court, together with the land included in the following boundaries, to-wit: beginning at the southwest corner of said plat, and running south two hundred feet; thence eastward, in a line parallel with the turnpike road, to a point in the land of Cornelius Hagerman, on a line with the line between the land of James Hughes and John W. Cowherd; thence northward with the line between said Hughes and Cowherd to a point on the land of Jno. Botts, in a line with the northern boundary of said plat; thence west to the northeast corner of lot No. 70, in said plat;

Limits of town.

1852.

thence north one hundred and fifty feet; thence west six hundred and seventy-four feet; thence south one hundred and fifty feet; thence west and with the northern and western boundaries of said plat to the beginning; shall be and the same is hereby declared to be the town of Simpsonville.

Powers of trustees

§ 2. That, hereafter, the prudential, fiscal, and municipal concerns of said town shall be vested in five trustees, who shall be elected annually on the first Saturday in March, by the free white males who have resided in said town sixty days next previous to such election, or who hold title to real property therein; which trustees shall hold their offices for the term of one year, and until their successors shall be elected and qualified; that said trustees, before they enter upon the duties of their office, shall take an oath before some justice of the peace, that they will faithfully, and without favor or affection to any one, discharge the duties of trustees of said town during their continuance in office; and in case a vacancy shall take place in said board, the remaining members thereof shall have power to fill such vacancy; any person may be eligible to office of trustee who is qualified to vote therefor.

Style of corporation.

§ 3. That the trustees of said town shall be a body politic and corporate, and shall be known by the name and style of the "board of trustees of the town of Simpsonville;" and by that name shall be capable, in law, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, of defending and being defended, in all courts and places, and may use a common or private seal, and do all acts, and matters, and things, which a body politic and corporate, having perpetual succession, can lawfully or rightfully do.

Trustees may levy tax.

§ 4. That the trustees of said town shall have power to levy and collect a poll tax from the citizens of said town subject to a county poll tax, not exceeding one dollar upon each tithe, and an *ad valorem* tax upon the property in said town now subject to taxation by the revenue laws of this state, not exceeding fifty cents on each one hundred dollars worth of property; and shall have power to appoint an assessor, collector, clerk, and treasurer, and such other officers as they may deem necessary and proper; and shall have power, by ordinance and by-laws to be passed by them, to prescribe and define the duties of all such officers, and require of them bond with security, for the faithful discharge of the duties of their respective offices.

Officers elected.

Title, in whom vested.

§ 5. That the legal title to all the streets and alleys in said town, and to all the real, personal, and mixed estate which now does or may hereafter belong to said town, shall be and is hereby vested in the said board of trustees, and their successors in office, so far as may be necessary

to enable them to improve and keep the same open and in good repair; and they shall have full power and authority to maintain and carry into judgment and execution any appropriate action or actions for the recovery of their property, or damages for the detention, taking, injury, or destruction of the same, and that the same process may issue, and execution be awarded as are applicable, by law, to suits by individuals.

§ 6. That the board of trustees shall have full power and authority to clear the streets, alleys, and side walks, and all passways in said town, and preserve free from incumbrance all the public grounds and improvements in said town; to remove, or cause to be removed and abated, any nuisance or nuisances in said town, and to regulate the storage or removal of any combustible or unwholesome materials that may injure the health or tend to diminish the comfort of the citizens, or the security of their property; that said trustees shall have and may exercise all the powers and privileges which, by the general laws in relation to towns, are granted to trustees; and shall have full power and authority to make all the necessary by-laws and regulations for the purpose of carrying into effect the powers granted by this act, and, also, such by-laws and regulations, not inconsistent with the constitution and laws of the land, as may be necessary for the comfort, good order, and security of said town and the citizens thereof; and may enforce the same by adequate penalties, to be recovered in their names before any justice of the peace for Shelby county.

Powers of the board.

§ 7. That the collector of said town shall have as full power and authority to collect all taxes levied by said board of trustees, as sheriffs now have, by law, to collect revenue tax or county levy; and for any breach of the by-laws of said town, the trustees may institute prosecutions in the name of the commonwealth, for the use of said trustees, by warrant, before any justice of the peace for Shelby county; which warrant shall be tried as soon as practicable, and shall not be deferred to the regular quarterly term of the justice court; and all fines thus collected shall be for the use of the town.

Duty and powers of collector.

§ 8. That the trustees of said town shall keep the streets and alleys thereof in good repair; and for neglect thereof, they shall be subject to the same pains and penalties that overseers of roads are now by law subject to; but said trustees shall not have the power to open any new streets or alleys in said town, without the consent of the owner or owners of the land over which any proposed street is to run; and, also, the citizens of said town shall be exempt from working on any of the public highways, except such as are within the limits of said town.

Trustees; their duties.

Approved January 7, 1852.

1852.

CHAPTER 304.

AN ACT for the benefit of the Louisville and Oldham Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That as fast as said turnpike road is built and opened for travel, after five miles thereof is constructed, the corresponding portions of the old county road, which the proposed turnpike road is intended to supersede, shall be considered as and may be closed, and the proprietors of the land over which said county road runs, may re-enter thereon and receive possession thereof.

Approved January 7, 1852.

CHAPTER 305.

AN ACT for the benefit of School District No. 29, in Owen county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the trustees of school district, No. 29, in Owen county, be and they are hereby authorized to make out and file with the county commissioners of said county, their report for the year 1849; and that said commissioners be and are hereby authorized to receive and report the same to the superintendent of public instruction, on or before the first day of April, 1852; and said superintendent is directed and authorized to draw his draft for, and pay to the county commissioners, for the use and benefit of said district, such sum as said district is entitled to, as though it had been reported within the time prescribed by law.

Approved January 7, 1852.

CHAPTER 306.

AN ACT for the benefit of the Clerk of the Hardin Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county court of Hardin county be and the said court is hereby authorized to employ the clerk of the Hardin circuit court to make, or cause to be made, a general cross index to all the judgments and decrees rendered by the Hardin circuit court, and which remain upon file in said office; and said court is further authorized to make the circuit court clerk a reasonable allowance for making, or causing said index to be made for said office, payable out of the county levy of said county.

Approved January 7, 1852.

CHAPTER 307.

1852.

AN ACT for the benefit of the administrator of Dixon Givens, deceased.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Isaac A. Myshew, administrator of Dixon Givens, deceased, late clerk of the circuit and county courts of Fulton county, be and he is hereby allowed until the first day of July next to list for collection the fee bills still due said decedent; and, when so listed, the proper officer shall duly collect and account for the same.

Approved January 7, 1852.

CHAPTER 308.

AN ACT to incorporate the Napoleon and Big Bone Lick Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company may be formed and created a body politic and corporate, by the name and style of the Napoleon and Big Bone Lick turnpike road company, for the purpose of making a turnpike road from Napoleon to Big Bone Lick.

Corporate name

§ 2. The capital stock of said company shall be twenty-five thousand dollars, to be divided into shares of twenty-five dollars each.

Capital stock

§ 3. That books for the subscription of stock shall be opened at any suitable place the commissioners may select; the following gentlemen shall be commissioners: Joseph S. Lillard, Daniel Houn, Wm. Dean, and J. E. Ely, on the part of Gallatin county; J. R. Hawkins and M. M. McManama, on the part of Boone county; on the 15th day of February, 1852, or as soon thereafter as the said commissioners, or a majority of them, may direct; and they may continue the books open as long as they may think proper. A majority of said commissioners may, at any time after convening, proceed to business, and any business done by said majority shall be as binding as if all were present; and if any one or more of said commissioners refuse to serve, a majority may appoint one or more in his or their stead.

Books to be opened.

§ 4. The subscribers shall, in the books of the commissioners, enter into the following obligation, to-wit: "We, whose names are hereunto subscribed, do respectively promise to pay the president and directors of the Napoleon and Big Bone Lick turnpike road company, twenty-five dollars for each share of stock set opposite to our names, at such times as we may designate, and pay the same in such proportions and at such times as the said president and directors may require, after the same becomes due and payable. Witness our hands this — day of — 185 —. Which amount shall be collectable in the proper courts.

Contract.

§ 5. So soon as twelve thousand dollars is subscribed to

1856.

Organization
of company.Election of di-
rectors.Corporate name
and powers.Location of
road: capital
may be increas-
ed; erect gates;
rates of toll.

capital stock of said company, it shall be the duty of the commissioners named in the third section of this act to give notice, in such manner as they may think proper, for a meeting of the stockholders, at such time and place as they may think proper to designate, for the purpose of electing a president and five directors; and one vote shall be allowed for each share of stock; and the president and directors shall continue in office for one year, and until their successors are duly elected. The times and places for all elections, after the first, shall be fixed by the president and directors for the time being. A majority of the board shall be competent to transact business.

§ 6. So soon as said company is organized by the election of officers, the president and directors shall be a body politic and corporate, in fact and in law, under the name and style of the president and directors of the Napoleon and Big Bone Lick turnpike road company; and, by that name, shall have perpetual succession, and all the privileges and franchises incident to a corporation; shall be capable of holding their capital stock, and the increase and profits thereof; and of taking and holding, by purchase or gift, all such lands, tenements, and hereditaments, real or personal property, as may be necessary for the prosecution of their work, or the objects of this corporation; they shall have power to contract and be contracted with, to sue and be sued, to plead and be impleaded, answer and be answered, in any court of law or equity, or elsewhere; also, to have and use a common seal, and generally to do all or any act, matter, or thing which a corporation may lawfully do, to effect the objects for which this corporation is created.

§ 7. Said president and directors shall fix and regulate the elevation and grade of said road, the width of the part thereof to be covered with stone; shall designate the places for the erection of gates; may fix the rates of toll, and regulate and change the same; may enlarge the capital stock to such amount as they may deem necessary, and open subscription therefor in such manner as they may direct, or they may apply the proceeds of such part of the road as may be completed to the completion of the residue; shall have the power of erecting a gate after four miles of said road shall have been completed: *Provided*, that gates shall not be established on said road at a distance less than five miles apart: *And, provided further*, that the rates of toll to be charged and exacted for travel on said road, shall not exceed those charged and exacted for travel on the Mayaville and Lexington turnpike road: *Provided further*, that no person or persons shall pay toll going to and returning from public worship on the sabbath, on horseback or vehicle; no person or persons shall pay toll going to or returning from any funeral or funeral procession, on horseback or vehicle.

§ 8. That the president and directors, with their surveyors, engineers, artist, and chain carriers, are hereby authorized and empowered to enter in and upon the land and inclosures, public roads, and highways, in, through, and over which said intended road may be thought proper to pass, and to examine and survey the ground most proper for that purpose, and to examine the quarries or beds of stone and gravel, and other materials necessary for the completion of said road; and they shall locate said road, and cause a plat of the same to be made out and deposited with the treasurer of said company.

1852.
May enter upon land.

§ 9. It shall be lawful for the president and directors, with their superintendents, engineers, workmen, and laborers, with their tools and instruments, carts, wagons, and other carriages, and their beasts of draught or burthen, to enter upon the land in and over, contiguous and near to which said intended road shall pass, having first given notice of their intention to the owners and occupiers thereof, or their agents: *Provided*, that if the president and directors shall not agree with the owners of the land through which said road is proposed to pass, as to the damages which said owners may sustain by said road passing through their lands, the president and directors shall apply to the county court of Gallatin or Boone county for a writ of *ad quod damnum* to assess the damages which may be sustained by the owners of the land; and the jury, in assessing the damages, shall take into consideration the advantages and disadvantages resulting to the party claiming damages by the establishment of said road; and, upon the payment or tender of the damages assessed, it shall be lawful for the president and directors to open and make said road, and to dig and carry away any stone, gravel, earth, or other material necessary for the construction or repairing said road.

Right of way.

Condemnation of land.

§ 10. That the president shall give notice, in such manner as he may deem proper, of the amount of call on each share of stock, and of the time of payment; and if any stockholder shall neglect to pay his proportion of stock, so called for, for the space of thirty days after the time of payment, every such stockholder shall, in addition to the amount so called for, pay at the rate of one per centum per month for every delay of payment; and if he shall fail to pay the amount of call and the penalty aforesaid for the space of six months after the time of such payment is required, he shall forfeit such share or shares to the corporation, together with the amount that shall have been paid thereon: *Provided*, that no stockholder shall vote at any election, or be entitled to any of the rights of a member of said company, unless the whole amount due and payable, as aforesaid, on each share by him held, shall have been paid agreeably to the requisition of the president.

Call on stock; how paid.

1852.

Treasurer ; to
give bond.

§ 11. The president and directors shall appoint a treasurer, and such other officers as they may deem necessary, who shall hold their offices for one year, and until others are appointed and qualified. The treasurer of said company, before he enters on the duties of his office, shall give bond and security, in such penalty as the president and directors shall require, payable to them, conditioned to pay over any amount in his hands to the order of the president and directors.

Approved January 7, 1852.

CHAPTER 309.

AN ACT for the benefit of the town of Dycusburg, in Crittenden county.

Boundaries
extended.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the boundaries of the town corporation of the town of Dycusburg, in Crittenden county, are hereby extended so as to commence on the bank of Cumberland river, at the original beginning corner of said corporation, running down said river one hundred poles; thence at right angles, and out from said river one hundred poles; thence at right angles and parallel with said river one hundred poles, to the line of G. B. Dycus' original survey; thence to the beginning.

Election of
police judge and
marshal.

§ 2. That it shall and may be lawful for the free white male citizens of said town, of the age of twenty-one years and over, who shall have resided therein thirty days next preceding the election, on the first Monday in March, 1852, and every two years thereafter, to elect a judicial officer, to be styled the police judge of the town of Dycusburg, and a police officer, to be styled the marshal of said town.

Term of office
of police judge.

§ 3. That said police judge shall hold his office for the term of two years from the first day of April following his election, and until his successor be duly elected and qualified. Said police judge shall be commissioned by the governor for said term; and, before he enters upon the duties of his office, shall take an oath before some justice of the peace, faithfully and impartially to discharge the duties of his office, to the best of his skill and ability, together with such other oaths as public officers are required to take. He shall, in civil causes, have the same power and jurisdiction that is exercised by one justice of the peace, and in criminal cases, that of two justices. He may grant injunctions, hear and determine writs of *habeas corpus*, and all causes involving the infraction of the town ordinances, and issue his warrant for the apprehension of all offenders against the same, as well as for those offending against the general laws of the town. He shall keep a docket, as justices of the peace now do, issue warrants and award exe-

His jurisdiction.

outions in civil cases: *Provided*, that five days notice of the day of trial shall be given the defendant or defendants; which warrant or warrants shall be executed by the town marshal of said town. Said police judge shall receive for his services the following fees, viz: for issuing a warrant and presiding on the trial, fifty cents; for issuing an execution, twenty cents; for presiding in all criminal cases and breaches of the town ordinances, in each case, one dollar; and for all other services, the same fees as justices of the peace are entitled to receive for similar services.

§ 4. That the marshal of said town shall hold his office for the term of two years from and after the first day of April following his election, and until his successor be duly elected and qualified. He shall execute a like bond, take a like oath, possess the same powers, have the same jurisdiction, exercise the same authority, perform the same duties, and be subject to the same penalties, as a constable of the county of Crittenden. He shall be required to execute all process directed to him by the police judge of said town; but his jurisdiction shall not extend beyond the corporate limits of said town.

§ 5. That in case of failure to hold an election, as specified in this act, it shall be lawful for said election to be held at any time within sixty days thereafter; and the officers, so elected, shall hold their offices until the next biennial election for said officers of said town: *Provided*, said marshal shall have jurisdiction for one mile from the centre of the town corporation, and may execute any process which may issue from the police judge against persons offending against the criminal or corporate laws, where such offenses take place within the limits of the town corporation, any where in Crittenden county.

Approved January 7, 1852.

CHAPTER 310.

AN ACT to authorize the people of Fayette to provide for the erection of a new Court House.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the presiding judge of the Fayette county court is hereby authorized to cause a vote to be taken of the citizens of Fayette county and city of Lexington, to ascertain whether they are willing to have a new court house erected on the public square in the city of Lexington, and on the terms proposed in this act.

§ 2. The said presiding judge shall, within one year from the date of this act, cause said vote to be taken, and he shall publish notice of the day and places of voting, in one or all the newspapers printed in Lexington, for at least thirty days before the vote is taken.

1852.

His fees.

Term of office
etc., of marshal.

Time of election.

Proviso.

Vote on tax.

When taken.

1852:

How election
to be conducted.

§ 3. The sheriff of Fayette county, by himself and deputies, the judges and clerks appointed to hold state elections, shall attend on the day named in the publication aforesaid, at the several state election precincts in Fayette county, and city of Lexington, and then and there take down the votes cast for and against the erection of said new court house. The said judges and clerks shall return the said poll books to the Fayette county court clerk's office within two days after said vote is taken, with their certificates thereto attached, showing the result of said vote at their several precincts. The said sheriff and his deputies, the said judges and clerks, shall be governed by the state election laws in taking said vote. If any of the officers aforesaid should fail to attend at said precincts, as required above, their office or offices shall be filled, and their duties discharged, in the mode, manner, and time, as pointed out by the state election laws.

Comparison of
polls.

§ 4. The presiding judge and the clerk of the Fayette county court, and the sheriff of Fayette county, shall meet at the Fayette county court clerk's office, on the fourth day after said vote is had, and then and there count the votes for and against the erection of said new court house, and certify the result to the county court of Fayette, which certificate shall be entered on the order book of said court.

Appointment of
committee.

§ 5. If a majority of all the qualified voters, in said county and city should be in favor of the erection of said new court house, then the presiding judge aforesaid shall summons all the justices of the peace in and for Fayette county and city of Lexington, to meet on a certain day named in the summons, for the purpose of electing a building committee, consisting of not less than three and not more than five persons; and a majority of said justices shall be present when said committee is elected.

Duty of committee.

§ 6. The building committee shall consult architects, obtain plans for said new court house, hear and receive proposals to erect and complete the same, and report said plans and proposals to the presiding judge of Fayette county court; and he shall then summons the justices of the peace of the county and city to meet together on a day to be by him appointed, when and where he shall lay before them the plans and proposals reported to him, as aforesaid. The said presiding judge and justices, a majority of said justices being present, shall then and there authorize and direct said building committee to make, for and in the name of Fayette county, a contract or contracts for the erection and completion of said new court house, with such specifications, restrictions, and conditions as they, the said presiding judge and justices, may designate at the time. The said committee to be further authorized by them to employ a suitable person to superintend the entire erection of said

new court house, and to see that the same is done according to contract. The said superintendent shall be allowed a reasonable compensation for his trouble, to be agreed on by the said building committee and himself.

§ 7. The said building committee shall examine the character of the work done on said new court house, and shall, from time to time, make reports of the same to the presiding judge aforesaid; and shall, also, examine and direct all bills of expense incurred in consequence of this act to be paid, which bills shall be countersigned by the presiding judge aforesaid, before the sheriff is authorized to pay the same.

§ 8. The presiding judge shall lay all reports made to him by the building committee before the justices of the peace aforesaid, for their advice and direction, at such times as he may have them called together.

§ 9. The entire cost of erecting and completing said new court house, including all expenses, shall not exceed the sum of sixty thousand dollars.

§ 10. If a majority of the votes ordered to be taken, as aforesaid, should be in favor of the erection of said new court house, then the commissioner of tax for the county of Fayette, and his deputies, shall distinguish in their tax lists, from year to year, and until otherwise ordered by the county court of Fayette, between the property listed, both real and personal, which is most usually kept in said county of Fayette and city of Lexington, and that which lies or is most usually kept in any other county.

§ 11. The presiding judge and justices of the peace aforesaid, a majority of said justices being present, shall levy an *ad valorem* tax, from time to time, on the property, both real and personal, as listed for state purposes, which shall lie or be most usually kept in the county of Fayette and city of Lexington, sufficient, after making a reasonable allowance for delinquencies, to raise said sixty thousand dollars; and said levy shall include the amount given in under the equalization law: *Provided*, that not more than twenty thousand dollars shall be raised in any one year.

§ 12. That the sheriff of Fayette county shall collect the taxes levied under the authority of this act; and for that purpose, he shall have the same power of distraining, advertising, and selling personal estate and slaves, which he has in the collection of the state revenue; and when he shall be unable to find any personal estate or slaves liable to the tax of any individual, he may levy on his real estate, and sell the same, under the rules and regulations prescribed for the sale of real estate under execution. But the owner of any real estate, so sold, shall have five years to redeem the same, upon the payment of the purchase money and ten per cent. interest per annum, with all taxes and levies which shall have accrued subsequently to the sale: *Pro-*

1852.

Further notice
of committee.

Reports of the
committee.

Cost of build-
ing.

Commissioners
of tax.

County court
may levy tax.

Sheriff to collect
tax; his powers
and duties.

1853.

vided, infants, *femes covert*, and persons of unsound minds shall have the additional time of one year to redeem in, after their disability is removed.

Sheriff to pay
orders.

§ 13. The sheriff shall, from time to time, as he shall collect said taxes, pay such orders as may be drawn on him by the building committee, countersigned by the presiding judge as aforesaid. The whole of the tax levied from year to year, as aforesaid, shall be collected and accounted for by the sheriff by the first day of January in each year, the delinquent list excepted.

Sheriff to ex-
cute bond.

§ 14. The sheriff, before he proceeds to collect said taxes, shall execute bonds with good surety, to be approved by the Fayette county court, in double the sum which shall be expected to be collected during the year then to ensue, payable to the county of Fayette; and he shall renew this bond every year during the collection of said taxes, and which bond shall be conditioned to collect said taxes, and account for and pay over the same as required by this act; and he shall be allowed, for his services, not exceeding three per cent. nor less than two, to be fixed by the county court, a majority of all the justices being present, on the amount of all taxes which he shall collect or be held responsible for and shall pay over.

His compen-
sation.

Suit instituted
on bond.

§ 15. The sheriff, and his sureties on the bond aforesaid, and in the name of Fayette county, may be proceeded against by motion or suit in the Fayette circuit court, for a failure to comply with the conditions of said bond; and the presiding judge of the Fayette county court shall cause said legal proceedings to be instituted: *Provided*, ten days notice shall be given of said intended motion. Judgment shall be given against the sheriff and his sureties for all the taxes aforesaid which he fails to account for and pay over according to law, together with ten per cent. damages thereon.

Lists of tax-
payers.

§ 16. The presiding judge of Fayette county shall, by the first day of June in each year, cause two alphabetical lists to be made of all the tax payers under this act, together with the amount due from each opposite their names, according to the *ad valorem* tax and levy as aforesaid, and shall, on or before the said first day of June, place one of said lists in the hands of the sheriff of Fayette county, and the other he shall keep for the use of the Fayette county court and the building committee aforesaid. The said sheriff shall, by himself and deputies, when said list is handed to him, proceed to collect said taxes, and, as the same are collected, he shall mark them paid on said list; and he shall exhibit said list to the building committee or presiding judge, when requested so to do.

Sheriff to set
the monthly.

§ 17. The said presiding judge and building committee shall call upon the sheriff monthly, and ascertain how much

of said taxes has been collected, and how much remains in his hands.

§ 18. The expenses of taking the vote aforesaid shall be paid out of the county levy; all other expenses incurred in consequence of this act, shall be paid out of the sixty thousand dollars to be raised as aforesaid.

§ 19. The presiding judge and justices of the peace aforesaid shall have the power to remove any or all of the building committee aforesaid, and to elect others at pleasure; and they shall have power to fill vacancies, if any shall occur in said committee. They also shall have power to control the action of said committee in all things entrusted to their hands. A majority of the justices aforesaid must be present whenever it becomes necessary for them to take any action under this act.

Approved January 7, 1852.

1852.

Expenses of election.

County court may remove the building committee and fill vacancies.

CHAPTER 311.

AN ACT to incorporate the Lexington and Cumberland Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the persons who shall subscribe for stock for constructing a railroad from the city of Lexington to the boundary line between this state and that of Tennessee, in the direction towards Knoxville, in the latter state, shall constitute a body corporate, to be styled the Lexington and Cumberland railroad company, of perpetual succession, and with all the powers incident to such a corporation, for the purpose of subserving the end of the association.

Company created.

Corporate name and powers.

§ 2. Two millions of dollars shall constitute the capital stock of the said company, to be divided into shares of one hundred dollars each, five per cent. of which shall be advanced at the time of subscribing for each share, and the residue as called for by the directory appointed by the stockholders.

Capital stock

§ 3. Books may be opened for subscriptions of stock in said company, by the commissioners hereinafter designated, at Lexington, Nicholasville, Lancaster, Crab Orchard, Mount Vernon, London, Barbourville, Manchester, and Williamsburg, at such times as shall be prescribed by said commissioners for each place, respectively, and of which a notification of at least six weeks shall be published in the Lexington Observer and Garrard Banner; and the following persons are appointed the commissioners for obtaining subscriptions of stock: for the city of Lexington and county of Fayette, Leslie Combs, Edward Johnson, Frank Hunt, Alexander H. Robertson, Dabney C. Overton, Robert Simpson, Jacob Ashton, Benjamin Gratz, Thomas Bullock, and

Opening of books.

Commissioners.

1852.

Richard A. Buckner; for the county of Garrard, George R. McKee, Gabriel J. Salter, George W. Conn, James A. Beasley, Squire T. Leavitt, Samuel E. Carey, John Letcher, and Nelson McMannis; for the county of Jessamine, George S. Shanklin, Parker E. Todhunter, Walter C. Young, Andrew Hemphill, and John Reynolds; for the county of Lincoln, Ephraim Pennington, John S. Hansford, John S. Higgins, Thomas Welch, and John Flak; for the county of Rockcastle, John A. Moore, John J. Haley, Uriah Gresham, William Smith, William H. Kirtley, and John W. Roberts; for the county of Laurel, Jarvis Jackson, John V. L. McKee, George P. Brown, William McHargue, and John C. Brown; for the county of Knox, Parks Brittain, Drury Tye, Thomas L. W. Sawyers, Jefferson Craig, James Evans, and John Arthur; for the county of Whitley, Thomas Rockhold, Thomas R. Harman, A. King, A. R. Barton, Anderson Williams, James Faulcner, and James T. Curd; and for the county of Clay, Daniel Garrard, Wade H. Walker, Samuel Ernsworth, Daugherty White, Daniel J. B. Stivers, Nathan S. McDowell, and Reuben May.

Certain companies may subscribe stock.
Vote on subscribing.

§ 4. The county court of the counties aforesaid may subscribe for stock in said company: *Provided*, that a majority of the qualified voters in each county shall vote therefor, after notice of the time and occasion of the vote shall have been published for two months, by advertisement at the door of the court house of each county, and in the Lexington Observer, and also in a newspaper in any of said counties in which such paper shall be published; and the commissioners aforesaid shall, for their several counties, prescribe the time of taking the vote in their respective counties, cause the prescribed publicity to be given, and fix the amount of stock to be voted for in the county for which they act.

Route of road.

§ 5. The said railroad shall be constructed on the best, most direct, and most practicable route from the city of Lexington to the Tennessee line, for the purpose of ultimately extending it to Chatanooga.

Organization.
President and directors.

§ 6. When one-half of the capital stock shall have been subscribed, the company may be organized by the election, by the stockholders, of a president and ten directors, three of which directors shall reside in Fayette, and one in each of the other of said counties; and the president and three directors shall constitute a board for doing business. The directors shall be elected by the stockholders, at Lexington, at such time as the said commissioners for Fayette shall prescribe, by publication in the Lexington Observer and Garrard Banner for three weeks.

Provisions adopted.

§ 6. For electing directors, for surveying and locating, and constructing said road, and for all other purposes within the scope of this incorporation, the provisions of the charter of the Maysville and Lexington railroad company,

as far as applicable, and except so far as may be here-
in otherwise provided, shall be the law for the company
hereby chartered.

1852.

Approved January 7, 1852.

CHAPTER 312.

AN ACT for the benefit of John Riley.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the president and directors of the Petersburg and Burlington turnpike road company to permit John Riley to pass and re-pass the toll gate on said road, near Burlington, with his stock, &c., upon such terms as they may think just and fair.

Approved January 7, 1852.

CHAPTER 313.

AN ACT to amend the city charter of Covington.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the school funds of said city shall be collected and kept distinct from the general revenue, and shall not be paid on orders allowed by the city council of Covington, but only in and upon orders of the school trustees.

School fund to be kept apart.

§ 2. That the trustees shall have power to arrange the boundaries of school districts, and alter the same at pleasure; also, to appoint the time of commencement and termination of sessions of the schools and examinations, and time and duration of vacations.

Arrangement of school districts.

§ 3. That the board of trustees shall have power and authority to select some suitable person as superintendent of the common schools in said city, whose duty shall be prescribed by the board, and allowed not exceeding three hundred dollars in any one year.

Superintendent of public schools

§ 4. That when books of assessment have been returned, the council shall refer them to committee of ways and means, or other appropriate committee, who shall constitute a board of equalization, and who shall have power to equalize the assessments, and assess property that has been omitted by the assessor, and make such abatement from the allowance to the assessor, for such omission, as to them shall be deemed proper. The assessor shall be allowed eight cents per list, for each list taken by him, and forfeit twenty-five cents per list for each one omitted, subject to the regulatory power aforesaid. The said action of the committee may be revised, corrected, amended, or re-committed, as the council shall deem advisable. After the

Duty of council.

Assessed property may be equalized.

Assessor's pay.

1852.

confirmation of the report by the council, amended or not, there shall be no further change in the assessment as to valuation made. That if, at any time after the confirmation aforesaid, any officer of the city shall discover or be informed of any property liable to taxation that has been omitted, he or they shall report the same to the city clerk, who shall assess the same, and deliver the bill therefor to the treasurer or collector, for collection, who shall have the same power to collect the same as if assessed by the assessor, and be liable in the same manner therefor.

Mayor *pro tem.*;
his powers and
duty.

§ 5. That the city council shall have power to appoint some member of their body, or other person, to act as mayor or *pro tem.* of said city, during the absence or inability of the mayor to act, or who shall, from any cause, be prevented from officiating; and, when so acting, the mayor *pro tem.* shall have and possess all the power and authority of the mayor, and shall receive the usual fees for the business done, and such proportion of the mayor's annual salary as the time of service bears to the year.

Saving to in-
fants, &c.; non-
resident pur-
chasers.

§ 6. That infants, *femes covert*, and persons of unsound mind shall have one year from the time of the removal of their several disabilities to redeem their property, which shall have been sold for taxes. That when the purchaser, at any tax sale, shall not be a resident of the city, or in the city, and cannot be found by the owner when he wishes to redeem his or her property, such owner may pay the money into the city treasury in redemption thereof, for which the treasurer shall give a receipt, and shall pay over such money to the purchaser when called for; the said payment shall as effectually redeem the property from such sale as if paid to the purchaser: *Provided*, the payment be made within the time and at the same rates per cent. of interest now allowed for the redemption of property sold for taxes.

Mayor may
grant injunction

§ 7. That the mayor of said city shall have and possess the same power to grant injunctions and attachments, that judges of the circuit and county courts have, and shall be allowed fifty cents for each injunction or attachment granted, collectable as other fees are.

Approved January 7, 1852.

CHAPTER 314.

AN ACT incorporating the People's Hydropathic, Literary, and American Reform College, of Kentucky,

Corporators.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Dr. Edward P. O'Neill, Gen. Leslie Combs, James Fisk, George W. Doxon, Thomas Ford, Preston Blakemore, Madison Blakemore, Jephtha D. Elliston, William George, Presley Davis, John McClure, Rob-

ert Elliott, Sowell Garnett, Fleming H. Garnett, Armstead Miller, William M. Nolan, Isaac Warren, Warner Jessé, Thomas Parker, Jackson Perry, James Alley, J. B. Lamp-ton, Lunsford Herndon, Charles T. Herndon, Henry C. Herndon, Thomas B. Redd, William R. Link, John C. Hawkins, Marion C. Taylor, H. R. French, Mahlon Shields, Jonathan Davis, and James Caldwell, be and they are here-by constituted a body politic and corporate, to be known by the name of the trustees of the people's hydropathic, literary, and American reform college of Kentucky; and, by that name, shall have full power to sue and be sued, plead and be impleaded, in any court of law or equity in this commonwealth, and full power to obtain and hold, by purchase, donation, or otherwise, property, real or personal, which they may deem necessary for the use and benefit of said college, not exceeding in value thirty thousand dol-lars; and shall have perpetual succession, and a common seal, with full power to break, alter, or change the same at pleasure.

Corporate name and powers.

§ 2. The said trustees may elect a president and other of-ficers; and when a vacancy shall occur by the death, remov-al, or other disability of any of the trustees, those remaining, or a majority of them, shall fill the vacancy by ballot; and the said trustees shall have full power, from time to time, to establish such by-laws, rules, and regulations as they, or a majority of them, may deem necessary, for the govern-ment of said college, and not inconsistent with the consti-tution and laws of this commonwealth.

Trustees may elect other offi-cers.

Vacancies—how filled.

May make by-laws, &c.

§ 3. The said trustees, or a majority of them, shall have power, from time to time, to employ such teacher or teach-ers as a majority of them may deem necessary to conduct said college; to fix the prices of tuition, and, together with the president of said college, to confer appropriate de-grees in the arts and sciences, upon such students or grad-uates as they may, from time to time, deem worthy to re-ceive the same: *Provided*, that the general assembly here-by reserves the right at any time to modify, alter, or re-peal this act at pleasure.

Appointment of teachers.

Repealing pow-er reserved.

Approved January 7, 1852.

CHAPTER 315.

AN ACT to establish the Parochial School of Elkton, Todd county.

§ 1. *Be it enacted by the General Assembly of the Common-wealth of Kentucky*, That John Donalson, Charles Camp-bell, William Rice, B. H. McCoun, Isaac Bard, Joseph B. Hadden, James Hawthorn, John J. Pierce, John D. Mat-thews, James Bibb, William H. Moore, James Grinter, Newton Hadden, James Benham, Edward S. Hall, Renben Rowland, Newton Nurse, and John W. Glass, and their

Corporators.

1852.

Corporate name
and powers.

successors, be and they are hereby constituted a body politic and corporate, by the name of the trustees of the parochial school of Elkton, Todd county, to be under the care and control of the Muhlenburg presbytery; and, as such, shall have perpetual succession, with full power to acquire, hold, and transfer real and personal estate, make contracts, sue and be sued, plead and be impleaded, in their corporate capacity; to make, have, and use a common seal, and the same to break, alter, or destroy at pleasure; and, also, to make such rules, by-laws, and ordinances as may be necessary for the government of said corporation, not inconsistent with the constitution and laws of this state.

Trustees; term
of office.

§ 2. That the trustees above named shall hold their offices for one year, and until their successors are elected and duly qualified, unless otherwise ordered by said presbytery; and said presbytery is vested with full power to choose and elect successors to the trustees mentioned in the first section of this act.

To manage the
funds.

§ 3. That said trustees, and their successors, shall have power to manage the funds and property committed to their care, in such manner as they may deem advantageous to said school.

May elect other
officers.

§ 4. That the trustees mentioned in this act, and their successors in office, shall have power to elect a chairman, treasurer, and secretary; and said secretary shall keep a faithful record of the proceedings of said board of trustees, and report the same annually to the presbytery.

Presbytery may
elect professors.

§ 5. That said presbytery shall have power to elect the president, professors, and teachers of said school.

Trustees may
fill vacancies.

§ 6. That the trustees of said school shall have power to fill any vacancies that may occur in said board of trustees, by death, resignation, or otherwise; and the trustee or trustees, so appointed, shall hold his or their office until superseded by an appointment of said presbytery.

May establish
course of study.

§ 7. That the trustees of said school shall have power to establish the course of study in said school, collect the funds and donations thereof, and disburse the same in the manner prescribed in the third section of this act; and they shall have power to regulate and pay the salaries of the teachers employed in said school: *Provided*, the general assembly hereby reserves the power to repeal, alter, or amend this charter at any time it may be deemed proper to do so.

Approved January 7, 1852.

CHAPTER 316.

AN ACT for the benefit of the Sheriff of Grant county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the further time of three months, from

and after the passage of this act, be allowed to J. H. Thompson, late sheriff of Grant county, to collect and pay into the treasury the residue of the revenue of said county for the year 1851: *Provided*, the sureties of said sheriff shall consent thereto in the Grant county court.

Approved January 7, 1852.

1852.

CHAPTER 317.

AN ACT to establish the offices of Police Judge and Town Marshal in the town of Milburn, in Ballard county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the offices of police judge and town marshal are hereby established in the town of Milburn, in Ballard county, to be elected in the same manner, at the same time, hold their offices for the same term, and with the same powers and jurisdiction, and liable to the same penalties, as the police judge and town marshal of the town of Clinton, in Hickman county, now have under an act approved March 15, 1851; and all acts concerning the same, so far as applicable, are hereby made to apply to said town of Milburn.

Approved January 7, 1852.

CHAPTER 318.

AN ACT to allow an additional Magistrates' and Constable's District in the county of Owsley.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be an additional magistrates' and constable's district laid off in Owsley county, to be known as district No. 6, and bounded as follows: beginning at the mouth of the Big Willow Shoal branch, on the Kentucky river; thence to the Ketchum Big Bald Rock; thence so as to include Luallen Bush; thence with the Montgomery and Owsley line to the Estill line; thence with the Estill and Owsley line to the beginning.

Boundaries.

§ 2. That the citizens of said district shall meet on the second Monday in May, 1852, at the house of Jacob Crabtree, in said district, and proceed to elect two persons as justices of the peace, and one person as constable, who shall continue in office until the next regular election to be held under the constitution for the election of justices of the peace and constables.

Election.

§ 3. That the place of voting in said district shall continue to be at the house of said Jacob Crabtree, until otherwise provided by law.

Voting place.

Approved January 7, 1852.

1852.

CHAPTER 319.

AN ACT repealing the law requiring the Wayne County Court to erect and keep a Stray Pound.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act, entitled, an act to reduce into one the several acts concerning strays, as requires the several counties in this commonwealth to erect and keep stray pounds, as relates to the county of Wayne, be and the same is hereby repealed; and that said county court of Wayne shall not, hereafter, be required to erect and keep a stray pound for said county.

Approved January 7, 1852.

CHAPTER 320.

AN ACT to amend the charter of the Kentucky Female Orphan School.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the fourth, fifth, sixth, seventh, and ninth sections of an act, entitled, an act to incorporate the Kentucky female orphan school, be so amended as to read as follows:

Treasurer.

§ 4. That on the first Monday in April next, the board of trustees shall hold a meeting, and proceed to elect some suitable person to fill the office of treasurer, whose duty it shall be, under the direction of the board, to manage the financial concerns of the institution; and he shall, by the advice of the board, invest the funds thereof in such investments as they may direct, yielding at least six per centum per annum. He shall enter into bond, with ample security or securities, conditioned for the faithful performance of the duties pertaining, and may be allowed by the board such compensation for his services as they shall deem reasonable.

When school to be put in operation.

Invested fund.

§ 5. That the board of trustees shall have power to put the school into operation so soon as the treasurer shall report to them a sum sufficient for that purpose is invested, in accordance with the fourth section above, to justify the same, in their judgment; and all the funds thus invested shall be a permanent and sacred fund, never to be expended, in whole or in part; and the board of trustees shall have power only to use the interest arising from said fund, in their outlay for the purposes of the institution.

Proceedings when fund insufficient.

Distribution.

§ 6. That if the treasurer shall not, on or before the first day of January, 1856, have reported to the board that the sum of twenty-five thousand dollars has been invested, as provided for hereinbefore, the board of trustees shall, without delay, proceed to cause a sale of such investments and other property as shall have been acquired, and, out of the proceeds of such sale, shall return to each original donor, or to the heirs and legal representatives of such donor,

their proportion of the amount of said sale, without interest, the ratio of apportionment being governed by the sum paid by each donor. The board, by its secretary, shall keep a book, well bound, in which shall be entered the name of each donor, and the amount given.

1852.

§ 7. That the beneficiaries of the institution shall be female orphan children; and the board of trustees shall have power to determine the number that shall at any time be admitted into the institution; and out of any number of applicants, they shall decide which shall be admitted, and shall also prescribe the time for which each beneficiary shall remain in the institution, and also be the judges of the age and circumstances entitling to admission.

Beneficiaries.

§ 9. That pay pupils may be admitted into the institution, the number and terms of admissions to be decided by a majority of the board of trustees.

Pay pupils.

Approved January 7, 1852.

CHAPTER 321.

AN ACT to authorize the town of Columbus to take and hold stock in the Ohio and Mobile Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the town of Columbus, in the counties of Hickman and Ballard, to hold stock in the corporation known as the Ohio and Mobile railroad company, on the same terms, with the same privileges, and subject to the same restrictions with other stockholders in said corporation: *Provided*, that the amount of stock to be subscribed for and held by said town shall in no event exceed the sum of fifty thousand dollars.

May hold stock.

§ 2. The trustees of said town may, after giving at least twenty days notice by advertisements, posted up at three or more of the most public places therein, upon a day to be therein named, together with the amount of stock proposed to be taken in said road, also named in such notice, proceed to take the sense of the qualified voters thereof, as to the propriety of the town becoming a stockholder in said railroad company, and for this purpose may cause an election to be held at the usual places of voting within the town. If, upon a correct comparison of the votes cast, a majority of those voting, who, according to the existing laws, are authorized to vote for trustees, shall have voted for the subscription of stock in the said railroad company, as proposed in the notices herein required, it shall be the duty of the chairman of the board of trustees of said town, for and on behalf of said town of Columbus, to subscribe for stock in said railroad company to the amount specified in the notices posted up, not exceeding said sum of fifty thousand dollars.

Vote of citizens.

1852.

Tax to pay stock

§ 3. For the purpose of meeting the calls of said company on account of said subscription of stock, the trustees of said town may lay a tax on all the real and personal estate within said town, embracing all the items taxed by the revenue laws of this commonwealth, and by the appropriation of part or all the moneys now on hand, or which may hereafter come into their possession, belonging to said town; or they may, on the credit of said town, borrow the sum or sums necessary, either with or without any of the items aforesaid, to meet any sums they may be called upon to pay on the stock so taken, as they may fall due, or to pay the interest of any debt created under the provisions of this act; and all taxes levied under this act shall be devoted to the purpose for which they shall be levied, and no other; which purpose shall be specified in the order levying the same.

Certificates.

§ 4. For all taxes paid by any citizen of said town, under the provisions of this act, the person so paying shall receive a certificate of the amount so paid, which, to the amount of one hundred dollars, when presented to the chairman of the board of trustees of said town, shall entitle the holder thereof to one share of stock in said railroad company, for every one hundred dollars of said certificates so presented; and all such certificates shall be assignable.

Approved January 7, 1852.

CHAPTER 322.

AN ACT authorizing the Judge of the Hart County Court to hold a July term of said court, and regulating the time of holding the Boyle County Court.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the judge of the Hart county court be and he is hereby authorized to hold a July term of said county court, on the first Monday in July in every year.

§ 2. That the judge of the Boyle county court be authorized to hold his quarterly terms on the fourth Monday in each of the months in which his courts are now held, instead of the first Monday, as now required by law.

Approved January 7, 1852.

CHAPTER 323.

AN ACT to authorize the County Court of McCracken to levy an *ad valorem* tax to build a Court House and Jail.

County court
may levy tax to
build.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the county court of McCracken county to levy an *ad valorem* tax on each one hundred dollars worth of property in said county,

not exceeding fifteen cents on each one hundred dollars worth, for two years only, which shall be expended, after paying the expense of collecting the same, in the erection of a court house and county jail in the town of Paducah; the levy to be made at the January or February term of said court: *Provided*, that a majority of the qualified voters of said county, at an election held for that purpose, shall approve the same.

1852.

§ 2. That an election shall be held on the first Monday in March, 1852, in the several election districts and the several precincts of said county, for the purpose of taking the sense of the qualified voters thereof, whether they approve of the tax ordered to be levied by the county court, as provided in the first section of this act. The sheriff of said county shall conduct the election, according to the election laws of this commonwealth, which shall continue for one day only. At said election the several sheriffs conducting the same, at the several precincts, shall propound the question to each voter proposing to vote, "are you in favor of the tax levied by the county court for building a court house and county jail?" whose votes for and against said tax shall be correctly set down in two columns, separately, "for" and "against;" and if it shall appear, after the return of the poll books and a comparison of the polls by the county judge and county court clerk, that a majority of all the qualified voters of said county have voted in favor of said tax, it shall be lawful for the sheriff of said county to proceed to collect the same, in the same manner and under the same laws governing the collection of the state revenue; for which said sheriff shall receive the same compensation allowed for the collection of the state revenue.

Election thereon.

§ 3. The number of votes cast at the August election, in the year 1851, for the office of governor, in McCracken county, shall be considered the true number of qualified voters.

Number of voters.

§ 4. Notice of the time and place of said election shall be made by the sheriff of said county, in the said election districts and precincts of said county, by advertisement at least fifteen days before said election is to take place, and by publication in the newspaper or newspapers published in Paducah; for which compensation shall be paid out of said tax.

Notice.

Approved January 7, 1852.

CHAPTER 324.

AN ACT to amend and reduce into one the several acts relating to the town of Glasgow.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the present corporate boundaries

1852.

Limits extended

of the town of Glasgow, and the additional territory hereby extended to and included within the following lines, to-wit: a line on the most northern side of said town, and a line on the most southern side thereof, each running parallel to main street, at a distance of one-half mile from the centre of the court house square to the centres, respectively, of said lines, and extended to their intersections at right angles with a line on the most eastern side thereof, and with a line on the most western side of the same, running the same distance from the centres of said square, as the said most northern and most southern lines—shall hereafter constitute the corporate limits of the town of Glasgow. And it is hereby made the duty of the present trustees of said town, on or before the first day of April, 1852, to cause said lines to be run and marked, and the corners and intersections of the same to be designated by stones placed thereat: *Provided*, that in running said lines, they shall so converge the same as to exclude any cultivated and well improved farm, occupied by the owner exclusively for agricultural purposes.

Boundaries,
to be run and
marked.

Trustees; elec-
tion.

Term of office,
oath, qualifica-
tions, duties.

§ 2. That, hereafter, the fiscal, municipal, and prudential concerns of said town shall be vested in seven trustees, who shall be elected annually on the first Saturday in April, in the manner hereinafter prescribed, by the free white male citizens of said town over the age of twenty-one years, and who shall have resided in said town, or the territory hereby added and made part of the same, six months previous to said election. Said trustees shall hold their offices one year, and till their successors shall be elected and qualified. That they shall, before they enter upon the discharge of their duties, take an oath before some justice of the peace, faithfully and impartially to discharge the same during their continuance in office. No person shall be a trustee of said town, who is not, at the time of holding the same, a real estate owner therein, and who has not resided in said town twelve months next preceding his election. They shall have power to fill any vacancy that may occur in their board. It shall be their duty, at their first meeting after their election, to appoint one of their own body to preside at their meetings, to be styled "the president of the board of trustees," to whose management and control the executive affairs of said town shall be entrusted. A majority of the board shall constitute a quorum for the transaction of business, and, in the absence of the president, may elect a president for the time being: *Provided*, that the present trustees shall continue in office till their successors herein provided to be elected, shall be elected and qualified.

Corporate name
and powers.

§ 3. That said trustees shall be a body politic and corporate, and shall be known by the name and style of "the board of trustees of Glasgow;" and, in that name, may sue

and be sued, contract and be contracted with, in all courts and places; may use either a common or private seal; and do all other acts which a body politic and corporate, having perpetual succession, may lawfully and rightfully do.

§ 4. That they shall have power to make and receive all necessary conveyances in relation to said town. They shall have power and authority to make all necessary by-laws for the regulation and good government of said town; not inconsistent with the constitution and laws of this commonwealth. They shall have power to assess and collect, annually, an *ad valorem* tax of not exceeding twenty cents on each one hundred dollars worth of the real and personal estate in said town, and a poll tax of not exceeding one dollar on each tithe; and upon the refusal of any person, so assessed, to pay said revenue or poll tax, or upon the return, by the town marshal hereinafter provided, of any delinquent list, they may order a sale and conveyance of the real or personal estate of said person, for the payment of his taxes, after an advertisement of said sale has been made: *Provided*, that it shall be the duty of said trustees to keep the streets in good repair for transportation and travel; and for every failure to do so, they shall, upon an indictment or presentment by the grand jury, be fined by the Barren circuit court a sum not exceeding five pounds, to be collected of them by the sheriff, and paid into the town treasury. They shall have power to declare, by their by-laws, what are nuisances within said town, and abate the same; and may impose fines and penalties upon whomsoever may cause them. They shall have power to provide for the organization of a fire company, to prescribe their duties, and fix fines and penalties for the failure or refusal of any one to perform the same. They shall have power to erect a suitable market house, and, for that purpose, may purchase ground, and regulate the market, and appoint a market master.

§ 5. That said trustees shall have the control of the graveyard near said town; and are hereby invested with power to add, by purchase, to said ground, not more than ten acres, or to purchase a new and more eligible site, of not more than twenty acres; and may lay off and sell burial rights or lots, and appropriate the proceeds to improving and beautifying the grounds; and may, by their by-laws, impose a fine not exceeding fifty dollars upon any person trespassing upon or injuring the grounds or improvements.

§ 6. That they shall have power over the streets, alleys, side-walks, and public squares in said town; and it is hereby made their duty, in all that part of said town where the same has not been done, to proceed, without delay, to open streets, roads, and alleys for the convenience of the public, and as the wants of society may require it; and may do this by purchase from, or the consent of property holders,

1852.

May receive conveyances.
May enact by-laws, &c.

May levy and collect taxes.

May repair streets.

Fines; fire company.

Grave-yard, &c.

Streets and alleys.

1852.

or by the application of the chairman of the board of trustees to a justice of the county court for a writ of *ad quod damnum*, to open streets, roads, and alleys, or parts of the same; said writ to be issued upon the proper parties being made, and like proceedings had as provided by law for opening public highways; and, upon payment of damages assessed, said streets, roads, and alleys to become public highways, and vest in said trustees, by order of court, and be under their control and management: *Provided*, that no such street or alley shall, in any case, be opened through any burial ground or dwelling house, nor shall they be opened through private grounds, without the consent of the owner, unless the wants of society require it: *And, provided further*, that the failure of said trustees, for six months from the first of May next, to cause such streets belonging to said town as are now, contrary to law, closed and obstructed, to be opened and such obstructions removed, shall subject them to a fine of not more than fifty dollars, to be imposed by the Barren circuit court, upon presentment or indictment by the grand jury; such fine, when collected, to be paid into the town treasury.

May grade and
pave streets, &c.

§ 7. That they shall, as the wants of society require, and the means in the treasury allow, grade and pave or McAdamize the streets in said town: *Provided*, that after any street shall have been paved or McAdamized, they shall have power and authority to cause the sidewalks of such streets to be graded and paved, at the expense of the owners of lots fronting the same, if said owners shall refuse to do so themselves, after reasonable notice is given; and the costs and expenses, so incurred by the trustees, may be listed and collected as other town taxes are collected; and a lien upon such lots shall be given to the trustees for the payment thereof: *Provided*, that in all sales of lots for such purpose, or for revenue tax, by said trustees, the owners of the same shall have three years in which to redeem them, by paying the purchase money, with twenty per centum per annum interest thereon: *Provided further*, that infants, *femes covert*, and persons of unsound mind shall have one year after such disability is removed to redeem the same.

Plat of town
to be recorded.

§ 8. It shall be the duty of the present trustees, on or before the first of April next, to cause to be made out two maps of said town—one upon a small scale for recording, and which shall be recorded in the clerk's office of the Barren county court, sworn to as correct by the person appointed by the trustees for the purpose of making the same, and the certificate of said oath likewise recorded; and one upon a large scale, to be hung up in their office for the use of the citizens; upon which said maps shall be made a plat of the survey of said town, as hereby extended and enlarged, and shall be designated all the streets, roads,

and alleys now opened, or that may hereafter be opened, and all the lots by number that are laid off, or that they may be permitted by the owners of land, in the enlargement of the town hereby made, to lay off; and such territory as shall not be divided into lots, shall likewise be designated; and shall be given any other such description of said town therein as may be necessary.

§ 9. That said trustees shall have power to pass by-laws for the suppression of tippling houses, bawdy houses, and houses of ill-fame, gambling houses, and such other houses as are the common resort of idle, dissolute, and disorderly persons; to prohibit all retailers of spirituous liquors from retailing the same; and, by providing and enforcing adequate penalties, to punish all riots, disorders, and breaches of the peace, and any indecent or licentious behavior.

Trustees may suppress tippling houses.

§ 10. That they shall have power to provide for taxing any store, grocery, or retail establishment that may be commenced or opened at any time subsequent to the day fixed for the annual assessment. They shall have power to tax peddlers, auctioneers, in addition to the tax now imposed by law, not exceeding one-fourth of one per cent. upon all public sales of goods, wares, and merchandise, and to require them to take out licenses, under such restrictions and penalties as may be necessary to enforce such tax; as well as the power to tax and license agencies of insurance, shows, exhibitions, theatrical performances, concerts, and all places of public amusement where money is charged for the admission to the same: *Provided*, scientific and literary lectures shall be exempt from tax.

May tax stores.

§ 11. They shall have the power to tax, and the exclusive right to license all taverns, houses of entertainment, coffee houses, retailers, victualers, confectioners, and houses of public resort in said town, such sums as they may provide: *Provided*, that the state tax upon tavern licenses shall be paid over to the clerk of the Barren county court, in the same amount that is now provided by law.

May tax and license taverns.

§ 12. That said trustees shall appoint a clerk, a treasurer, and assessor of tax, being citizens of said town, whose term of office shall continue one year, unless removed by said board; and it shall be their duty to keep records of the proceedings properly belonging to their respective offices; to enter into such bonds for the faithful discharge of their duties as said board may prescribe; and such compensation may be allowed them for their services as may be fixed by the trustees.

May appoint other officers.

§ 13. A police judge and town marshal shall be elected, annually, by the qualified voters of the town, and hold their offices for the term of one year, and until their successors are elected and qualified, in like manner, and at the same time of electing trustees. The polls of the election of police judge and town marshal shall be returned to

Election of police judge and marshal.

1852.

the county court of Barren county, at the first term after said election; and the said county court shall certify the result of the election, so far as the election of police judge is concerned, to the governor of the state, whose duty it shall be to issue a commission for the person elected to the office of police judge, and who shall be a judicial officer, to be styled, "the police judge of the town of Glasgow."

Duties, &c., of
Police Judge.

§ 14. The police judge shall, before he enters on the duties of his office, take an oath before some justice of the peace, or judicial officer of Barren county, to discharge the duties of his said office faithfully and impartially, to the best of his ability, without favor or affection, together with such other oaths as other public officers may be required by law and the constitution to take. The said police judge shall have jurisdiction within said town and town district, of civil causes, to the same extent that justices of the peace now have, or may hereafter have in this state; and shall have the same jurisdiction of crimes and misdemeanors, committed within said town and town district, as two justices of the peace now have; and shall have full jurisdiction within said town, of all the offenses against the by-laws and ordinances of said town; and shall have power to enter judgments and issue executions for all fines and penalties for such offenses. He shall have power to grant attachments and injunctions, and writs of *ne exeat*, to the same extent as the justices of the peace selected by the county court now have. It shall be the duty of said police judge to keep a record of his proceedings, copies of which shall be evidence, to the same extent and for the same purpose that copies of the records of justices of the peace now are. He shall have power to issue subpoenas for witnesses, and other process to compel attendance of witnesses before him, and to punish all contempts against his authority, by fines not exceeding five dollars in each case. He shall have power to order the marshal or other officer to summon a jury, in cases cognizable before him, where a jury is required by law. He shall have power to take and certify depositions, as justices of the peace and examiners now have, which shall be allowed to be read as depositions are now allowed to be read, which are taken before and certified by justices or examiners. He shall be entitled to the following fees, viz: for a peace warrant, fifty cents; for a warrant in cases of riot, rout, or unlawful assembly, or breach of the peace, fifty cents; for a warrant for a violation of any by-law or ordinance of said town, where the trustees of the town are plaintiffs, twenty-five cents; for swearing a jury and presiding over a trial, fifty cents; for subpoenas, twelve and a half cents, each; for original judgments, in all civil cases, twelve and a half cents; all other fees shall be the same as those of justices of the peace for like services, and shall have power to col-

His fees.

lect in the same way. He shall have jurisdiction of all cases of motions and suits against the treasurer, marshal, clerk, and other officers of said town, for all sums of money received and paid out by them, whenever required by any one to take cognizance thereof.

§ 15. Appeals from all judgments rendered by said police judge, in civil cases, shall be allowed to any party, under the same rules and regulations, and to the same tribunals, as appeals are now allowed from judgments of justices of the peace in like cases.

§ 16. The marshal shall have the same powers, and perform the same duties, and be liable to the same penalties that constables of this commonwealth are now, by law, or may hereafter be authorized to perform, or be subject to; and said marshal, before he enters on the duties of his office, shall take an oath for the faithful performance of his duty, in the county court of Barren county; and shall execute a bond, with one or more good sureties, to be approved by said county court, in the penalty of three thousand dollars, payable to the commonwealth of Kentucky, with a condition similar to a bond a constable is bound to execute; and the same may be put in suit, for a failure to perform the conditions of said bond, by any person injured, in the same manner as suits are now authorized to be brought on a constable's bond; and said marshal shall also be subject to a motion against him and his surety, before said police judge, for a failure to pay over money to the person entitled to receive the same, under the same rules, regulations, and restrictions as motions are authorized to be made against defaulting constables. He shall collect all taxes of said town, and other demands in any part of said county, that may be put into his hands to collect, and account for and pay over the same to whosoever may be entitled thereto, under the same rules and regulations required by law of sheriffs in the collection of taxes, and of constables in the collection of executions and other demands. The said marshal shall be entitled to such fees for collecting the town tax, as said trustees may allow by their by-laws: *Provided*, that said police judge shall have power and authority to direct his process to be executed by any constable of said county: *Provided*, said marshal shall have no official power, or perform any official duties, outside of the justices' district in which said town is situated.

§ 17. That all fines and forfeitures for a violation of the ordinances of said town, in all cases cognizable before the police judge, shall be collected and paid into the treasury for the use and benefit of said town.

§ 18. That all contracts entered into by or with the former trustees of Glasgow, shall be binding and obligatory on the trustees to be elected under this act.

§ 19. That the election of trustees, police judge, and

1852.

Appeals.

Duties, &c., of
marshal.

Bond to be
executed.

His fees.

Fines, &c.

Former con-
tracts binding.

Elections.

1862.

town marshal shall be conducted by the town clerk and one or more of the trustees in office at the time of such election, or by such other persons as may be appointed by the board for that purpose, and shall be held at such place as may by the board be designated; and after the polls shall have been closed, it shall be the duty of the officers conducting the election to return the same to a board of examiners, of three persons, to be selected by the trustees, who shall compare the same, and shall certify to the clerk of the board of trustees then in office the names of the seven persons having received the highest number of votes for trustees; and said clerk shall record said certificate in their books. And said trustees, so elected, shall immediately thereafter qualify and enter immediately upon the duties of their office.

Penalty for
permitting
slaves to hire
their own time.

Duties of police
judge.

§ 20. That if the owner or hirer, or any person who has the legal control and custody of any slave, shall suffer or permit said slave to hire his or her own time, in the town of Glasgow, or go at large and act for himself or herself in said town, the police judge shall, at the instance of the trustees or the marshal, and in pursuance of an ordinance passed by the board of trustees against the same, issue his warrant against the owner or hirer, or person who has the legal control of said slave, to appear and show cause why judgment shall not be had against him or her for such offense; which warrant may be executed by the town marshal or any constable; and upon the return of the same, a jury shall be impaneled by said judge; and if the jury shall find that the defendant or defendants to said warrant suffered and permitted said slave to hire his or her own time, or go at large and act for himself or herself in said town, contrary to the provisions herein, and to the ordinance passed by the board of trustees in relation thereto, said police judge shall, thereupon, enter judgment that said defendant be fined any sum not exceeding fifty dollars, at the discretion of the jury, to be collected and paid into the town treasury: *Provided*, that if said owner or hirer of any slave be unknown or a non-resident of the commonwealth, the police judge may order the slave to be hired out by the marshal, from month to month, for the benefit of said town, until the owner can be ascertained: *and, provided further*, that process against such owner or hirer, defendant, may be sent to and executed in any other county.

Former acts
repealed.

§ 21. That all acts or parts of acts, coming in conflict with this act, and inconsistent with the same, be and the same are hereby repealed.

Approved January 7, 1862.

CHAPTER 326.

1852.

AN ACT for the benefit of John Bell, Jr.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John Bell, Jr., and company, are hereby authorized and permitted to erect one or more locks and dams on Tradewater river, at such places as they may deem most suitable, between the mouth of said river and Emboden's mill; the dams not to exceed fifteen feet in height, and the locks not to be less than one hundred and thirty feet in length; and when there shall be seven feet water on the shoals on said river, then the gates of said locks shall be opened, and all boats, rafts, or water craft of any description shall pass free of charge. But when there shall be less than seven feet water upon the shoal next above the dam, the said Bell and company, their agents or assigns, are hereby authorized to charge the same rates of tolls as the rules and regulations on Green and Barren rivers now permit, and levy and collect the same: *Provided*, that the said company shall be bound to remove the said dams, if the same shall become an obstruction to the navigation of the said river, whenever required to do so by act of the general assembly: *and, provided further*, that the legislature reserves the right to amend, change, or repeal this act at pleasure.

Approved January 7, 1852.

CHAPTER 327.

AN ACT making additional voting precincts, and changing the place of voting in District No. 4, in Greenup county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there be and is hereby established an additional place of voting in district No. 3, in Greenup county, to be at the house of Mark Roberts; and that an additional place of voting in district No. 7, in said county, be established at or near the house of Alexander Newman.

Additional
voting places.

§ 2. That the place of voting in district No. 4, in said county, be changed from Laurel Furnace to the tavern house of Samuel Osenton, at Oldtown.

§ 3. That James Louder, William Thompson, and Edward Logan are hereby appointed commissioners to divide precinct No. 3, in Greenup county, in such manner as will best comport with the interest and convenience of the citizens therein, having due regard to the place of voting hereby established at the house of Mark Roberts.

Commission-
ers to divide
No. 3.

§ 4. That Jabez Hold, Thos. Crume, and Hugh A. Page are hereby appointed commissioners to divide precinct No. 7, in said county, in such manner as will best comport with the convenience of the citizens therein, having due regard

To divide No. 7.

1852.

to the place of voting hereby established at the house of Alexander Newman: *Provided*, that no person residing on one side of the line, by which said precinct may be thus divided, shall vote at the voting place on the other side thereof.

Duties of commissioners.

§ 5. The commissioners aforesaid shall, in all things, as far as practicable, be governed by the 6th, 7th, and 8th sections of the act, approved December 12, 1850, appointing commissioners to divide the counties of this state into districts for the election of justices of the peace and constables.

Approved January 7, 1852.

CHAPTER 328.

AN ACT for the benefit of the Sheriff of Caldwell county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Caldwell county be and he is hereby allowed until the first day of April, 1852, to return his delinquent list, and pay into the treasury the remaining portion of the revenue of said county for the year 1851. This act is not to take effect until the present securities of said sheriff shall enter of record, in the county court of said county, their consent to such indulgence.

Approved January 7, 1852.

CHAPTER 329.

AN ACT for the benefit of the Sheriff of Bath county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Hugh Porter, sheriff of Bath county, have until the fifteenth day of January next to pay in the balance of the revenue of said county, and return his delinquent list: *Provided, however*, this act is not to take effect until the securities of said sheriff appear in the county court of said county, and enter of record their consent to such indulgence.

Approved January 7, 1852.

CHAPTER 330.

AN ACT regulating the fees and duties of the Sealer of Weights and Measures in the county of Jefferson.

Sealer weights and measures.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Jefferson county shall, at the first session of the county court in March, 1852, and every two years thereafter, elect a sealer

of weights and measures for said county, whose duty it shall be at all times to overlook the markets, stores, groceries, and other place or places where weights, scales, and measures are used; and that the present incumbent shall retain and hold his office until his successor be elected and qualified.

§ 2. The county court of Jefferson county shall have power to regulate the duties and fees of the sealer of weights and measures, but shall not establish them higher than the following rates, but may diminish the same at pleasure, viz: for adjusting dormant scales weighing from thirty to eighty tons, five dollars; of three thousand pounds, one dollar; platform scales, twenty-five cents; counter scales, thirty-seven and a half cents; graded scales, twenty-five cents; dormant equal beams, thirty-seven and a half cents; equal beams, twenty-five cents; steelyards, twenty-five cents; small patent balances, twenty-five cents; small patent balances with two peas, twenty-five cents; for patent balances over three hundred pounds and under five hundred pounds, thirty cents; over five hundred pounds and under one thousand pounds, seventy-five cents; over one thousand pounds and under three thousand pounds, one dollar; one hundred pound weights and under, twenty-five cents; pyramid pile, fifty cents; sealing and testing a half bushel, fifteen cents; all dry measures less than half a bushel, five cents; re-examining the capacity of wine and liquor measures, five cents per measure; for surveyors' chains, fifty cents.

§ 3. It shall be the duty of all persons residing within the city of Louisville and Jefferson county, using the weights and measures mentioned in the second section of this act, or any thing else that may be used to ascertain weight and measure, to have the same tested and compared with the weights and measures of the county of Jefferson, before using the same, and once in every year thereafter, between the first day of May and September, except farmers and all other persons not buying and selling, who shall have their weights and measures compared once every five years; and it shall be the duty of the sealer of weights and measures, when notified in writing that any of the articles mentioned in the second section of this act are immoveable, to remove so much of the standard as may be necessary to test and compare the same, the applicant or applicants paying all expenses attending the removal of said standard.

§ 4. If any person shall fail or refuse to have weights or measures used by him, her, or them, as aforesaid, compared with the standard provided by the county court, and as directed in this act, he, she, or they, so offending, shall be subject to a fine of ten dollars, recoverable before any justice of the peace, in the name of the commonwealth; and said fine shall be paid to the county court, and be applied to the purchase of standard weights and measures and fix-

1852.

His term of office, and duties

County court may regulate his duties and fees.

Rates of fees.

Duty to have weights and measures examined.

Duty of sealer.

Penalties for failing to comply with this act.

1852.

tures, and the necessary repair of the same, as may be directed by the courts for said county; and it shall be the duty of the sealer of weights and measures to present all offenders under the provisions of this act, and report and pay over said fines annually to said court.

Further duties
of said officer.

§ 5. It shall be the duty of the sealer of weights and measures, after the first day of September of each and every year, to inspect all the stores and other places where such articles as are set forth in the second section of this act may be used; and if any person or persons shall prevent, hinder, or delay him in the discharge of his duty, or be found violating this act, he, she, or they, so offending, shall be fined as prescribed in the fourth section of this act.

Take charge of
the standard
weights and
measures; exe-
cute bond; and
report fines.

§ 6. It shall be the duty of said sealer of weights and measures to take charge of said standard of weights and measures, and give bond in the sum of two thousand dollars, with sufficient surety, to be approved of by said county court, for the faithful performance of his duty; and he shall annually make a report to said county court, at the February term thereof, under oath, setting forth the amount of fines imposed under this act, and showing the exact number of scales, weights, and measures, as mentioned in the second section of this act, he has compared, citing the dates upon which said comparisons were made, which said report shall go to record in the office of the county court; and all acts coming in conflict herewith are hereby repealed.

Approved January 7, 1852.

CHAPTER 331.

AN ACT to amend an act incorporating the Bardstown Female Seminary.

WHEREAS, by an arrangement made between the Louisville Presbytery and the Presbyterian church at Bardstown, it was agreed that the control and management of the Bardstown female academy, together with its corporate estate and effects, should be transferred to said Presbyterian church at Bardstown, (old school.) Therefore, to carry out said arrangement,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act, entitled, an act incorporating the Bardstown female academy, as vests in the Presbytery of Louisville, the power to elect trustees for said academy, be and the same is hereby repealed; and that, hereafter, all the rights, powers, and privileges by said act vested in said Presbytery, be and the same are hereby vested in the officers and members of the Presbyterian church at Bardstown, (old school,) and their succe-

sors. The transfer thus made shall not affect the rights and claims of any creditor of said corporation.

1852.

Approved January 7, 1852.

CHAPTER 332.

AN ACT to authorize the County Court of Harrison county to borrow money.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Harrison county, a majority of all the justices of said county agreeing thereto, be authorized to borrow a sufficient sum of money to meet the first and second installments, of one thousand dollars each, promised by the building committee to John Huddleson, in part payment for building the court house in Cynthiana, now in process of construction: *Provided*, that said sums shall not be borrowed at a greater interest than eight per cent. per annum.

§ 2. That if it should become necessary for said court to borrow any further sum or sums to aid in paying for building said court house, said county court is authorized to borrow such additional sum or sums as may be necessary, at a rate of interest not to exceed the rate specified in the first section hereof; that said court shall provide the means of repaying the sums which may be borrowed for the purposes aforesaid, out of the county levy of said county. And said court is authorized, if necessary, to renew said loans from year to year, until the same shall be paid, at the same rate of interest.

Approved January 7, 1852.

CHAPTER 333.

AN ACT to authorize the County Court of Allen to re-district election precincts, and establish one additional Justices' district and election precinct in said county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Allen county may, at the May term of said court, 1852, appoint two suitable persons from each justices' district in said county, as commissioners to re-district and lay off said county into justices' districts, of convenient size; and, if they think the general convenience of the people of said county require it, may lay off and establish one additional justices' district, and designate therein a place of voting.

Districting of county.

§ 2. Said commissioners may, if they think proper, change the lines of any or all the present justices' districts in said county, and the present places of voting therein, to any other place: *Provided*, that they shall not change the pres-

Commissioners may change the lines and voting places.

1852.

Election of justices and constables.

ent place of voting at the court house in the town of Scottsville, to any other place.

§ 3. Should said commissioners establish an additional justices' district, there shall be no election for justices of the peace and constable therein, until the next general election for justices of the peace and constables, at which time there shall be two justices of the peace and one constable elected for said additional district: *Provided*, that said court shall appoint the necessary officers to hold elections therein, other than for the election of justices of the peace and constable, as soon as the provisions of this act are complied with.

Duty of commissioners.

§ 4. The jurisdiction of the justices of the peace in said county shall remain as at present, until otherwise changed by the provisions of this act.

§ 5. Said commissioners shall, in laying off said districts, plainly define the boundaries of each, as far as practicable, by creeks, roads, ridges, and other notable objects; and shall designate a place of voting in each district at which elections shall be held.

May change election precincts.

§ 6. Said commissioners may lay off and establish election precincts in said county, other than those provided in the preceding sections of this act, by throwing two or more justices' districts together for the purpose of forming such precincts, at which all elections may be held other than for the election of justices of the peace and constables. In forming any such election precinct, said commissioners shall designate the districts thus forming it, and designate therein the place of voting: *Provided*, that there shall not be less than three such election precincts in said county: *And, provided further*, that this section shall not be so construed as to allow any voter to vote out of his district for justices of the peace and constable.

To take oath, and report.

§ 7. Said commissioners shall, before they enter upon the duties assigned them under the provisions of this act, take an oath that they will, to the best of their abilities, faithfully discharge those duties without favor, partiality, or prejudice to any portion of the citizens of said county. Said commissioners shall make out a full and complete report of all they have done under the provisions of this act, and return the same to the June term of said court, 1852, signed by each commissioner; at which term of said court the same shall be spread at full length on the record thereof; a copy of said report shall be forthwith transmitted to the secretary of state, and one copy delivered to the sheriff of the county, who shall cause the same to be published in each district in said county, by advertising the same at one or more places therein, at least thirty days before the next general election thereafter, provided that number of days intervene between the time of receiving said report and the next general election: in the event that number of days de-

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not intervene, said sheriff shall cause said publication to be made at any time within sixty days after he shall have received said report.

§ 8. Should the provisions of this act not be fully complied with, the election precincts and justices' districts shall remain as at present. The county court shall allow the clerk and sheriff all reasonable charges for performing the duties assigned them under the provisions of this act, to be paid out of the county levy.

Approved January 7, 1852.

1852.

Clerk's and
sheriff's fees.

CHAPTER 334.

AN ACT to establish a sinking fund for the county of Bourbon, and to provide for the appointment of commissioners therefor.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That for the purpose of providing for the punctual payment of the interest, as it shall fall due, upon the bonds already issued, and which shall hereafter be issued by the county of Bourbon, to pay for stock subscribed by said county in the Maysville and Lexington railroad company, and for the final liquidation and redemption of said bonds, a sinking fund is hereby created and established, to be made up of the dividends accruing to said county, on the stock owned by said company in the several turnpike roads located in and running through said county, remaining in the hands of the county treasurer at the expiration of each fiscal year, after all claims against the county shall have been paid off, and of the annual tax levied and to be levied in said county for railroad purposes, under the laws amendatory of the charters of each of said railroad companies, and of all dividends which shall be made upon railroad stock owned by said county; which said fund shall to forever held sacred, and shall be set apart and devoted to the purposes pointed out by this act, and to no other.

County to provide means for the payment of interest on bonds.

§ 2. That the county court of Bourbon county, a majority of all the justices of the peace for said county being present, shall, at its next February term, or at the first term thereafter, at which a majority of the justices of the county can be had, appoint three fit persons, one of whom shall be the treasurer of the county, who shall be and they are hereby constituted commissioners of the said sinking fund; and all the sources of income devoted by the first section of this act to a sinking fund for the county of Bourbon, shall be under the control and management of said commissioners, who shall be charged with the payment of the interest as the same shall accrue on the bonds of the county, issued and to be issued for railroad purposes, out of said sinking fund, and they shall, from time to time, invest

Commissioners of fund.

Their duties.

1852.

May be removed.

Corporate name and powers.

How bonds to be disposed of.

Commissioners to report.

Compensation.

the surplus money belonging to said fund in safe and profitable stocks, in order that said fund may be made profitable and available. The said county court may, at any regular term of the court, a majority of the justices of the county being present, for good cause shown, remove from office any one or all of said commissioners, but shall, at the time of removal, appoint another or other fit persons to fill the vacancy or vacancies occasioned by such removal; and said court shall, when a majority of the justices are present, fill the vacancies that occur in said board by death, resignation, or otherwise.

§ 3. The said board of commissioners shall be a body politic, and shall have a perpetual existence; may sue and be sued, and may do all and singular every act which can be done by a body corporate; and shall be known and designated by the name and style of "the commissioners of the sinking fund for Bourbon county."

§ 4. That whenever said board of commissioners shall deem it advisable so to do, it may use any portion of the money on hand, constituting said sinking fund, in the purchase and redemption of the bonds of the county of Bourbon; and the same, when thus purchased and redeemed, as shall be all coupons taken in and paid by said board, cancelled by burning, in the presence of the presiding judge of the county court of Bourbon and the clerk of said court, a record of which shall be made by said clerk.

§ 5. Said board of commissioners shall annually, at the February term of the court, make to the said county court of Bourbon a written statement of its proceedings, which shall be set forth, item by item, all its receipts, and from what sources, and all its payments, and for what purposes; which said statement, upon being examined and approved of by the judge of the county court, shall be entered of record.

§ 6. That said county court, upon the annual report of the commissioners being made and approved, shall make to said commissioners a reasonable allowance for their services.

§ 7. That said board of commissioners shall keep a record of their proceedings, in a well bound book, which shall be at all times accessible to the judge of the Bourbon county court.

Approved January 7, 1852.

CHAPTER 335.

AN ACT to amend an act, entitled, an act to incorporate the Georgetown and Louisville Branch Railroad.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the act, entitled, an act to incor-

porate the Georgetown and Louisville branch railroad company, approved March 20, 1851, be and the same is hereby so amended as to authorize the company created by said act to construct a railroad, with all such appendages, fixtures, building, and machinery as may be deemed necessary for the use of the same, commencing at the town of Georgetown, thence to intersect the Covington and Lexington railroad at such point and by such route as may be deemed most practicable, under the same limitations, restrictions, privileges, and conditions as are provided by the act to which this is an amendment.

§ 2. That the capital stock of said company shall be five hundred thousand dollars, to be further increased, if necessary, to complete and finish the road, to be divided into shares of one hundred dollars each.

§ 3. That whenever said company shall request the county court of any county through which said road may pass, to subscribe the bonds of said county for any portion of the capital stock of said company, not exceeding three hundred thousand dollars in amount, the said county court shall, within sixty days thereafter, on a day to be by it appointed, cause a vote of the people of the county to be taken, at the several precincts and voting places in said county, upon the question whether or not the court shall subscribe the amount of stock; and in all matters pertaining to the taking of said vote, the execution and issuing of said bonds, the levying and collecting of the tax necessary to pay the interest thereon, and the appropriation and disbursement of the fund arising therefrom, the said county court and said company shall be governed and regulated by the provisions of an act, entitled, an act to authorize the county of Fayette and city of Lexington to subscribe stock in railroad companies, approved January 25, 1851; which said act, and the various provisions thereof, so far as applicable, are hereby re-enacted as part of this act.

§ 4. The county court subscribing stock under the provisions of this act, and authorized to borrow money, on behalf of the county, from time to time, to pay such subscription of stock, as the same may be required and payable; and to pay, for such money so borrowed, any rate of interest not exceeding ten per centum per annum; and to bind the county for payment of the money so borrowed and its interest, by proper bonds and evidences given by said court, and which shall forever bind said county for payment thereof, according to their terms and stipulations.

§ 5. The means for payment of all money so borrowed, and its interest, or of any bonds so given, shall, if necessary, be raised from time to time, by an *ad valorem* tax upon the real and personal estate of said county, to be levied and collected as herein before directed and provided.

Approved January 7, 1852.

1852.

Route of road.

Capital stock.

County court may subscribe to stock.

Vote of county to be taken.

Powers of corporation.

May borrow money.

Amount raised by *ad valorem* tax.

1852.

CHAPTER 396.

AN ACT to authorize the county of Henry to subscribe stock in the Louisville and Covington Railroad.

County to vote
on subscription
of stock.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the voters of Henry county be and they are hereby authorized to say, at the polls, whether the county court of said county shall subscribe, either absolutely or upon specified conditions, the bonds of said county for any portion of the capital stock of said company, not exceeding one hundred and fifty thousand dollars; and to ascertain whether the voters of said county are in favor of said subscription, as aforesaid, and whether the county court thereof shall subscribe the sum above mentioned, a vote shall be taken of the people of said county, at the several precincts in said county, on the third Monday in March, 1852.

Officers of election
appointed.

§ 2. That the county court of Henry county shall, at the February term next preceding the third Monday in March, 1852, appoint the judges and other officers necessary to conduct the election; and the return thereof shall be made to the judge of the county court within ten days after the election shall be held.

§ 3. That at its next term, the judge of the county court shall order the vote for and against the subscription to be entered in the county court record book, by the clerk of the county court; and if a majority of the votes cast shall appear to be in favor of the subscription, the court shall order its clerk to make it forthwith, in the name of the county, and in accordance with the vote.

When bonds
to be executed,
and how paid.

§ 4. That when any such subscription shall be made, the bonds shall be executed, under the seal of the county court, signed by the county judge thereof, and countersigned by the clerk. They shall be negotiable and payable in the city of New York, or elsewhere, thirty years after date, and shall bear interest from date, at the rate of not exceeding seven per cent. per annum.

Amount to be
issued in 1 year.

§ 5. That not more than one-half of the bonds subscribed to the company aforesaid shall be issued to it in one year.

How interest
to be paid.

§ 6. That until the dividends on the stock subscribed for shall be sufficient to pay the interest on the bonds above mentioned, the sum of twenty-five thousand dollars, arising from the sale of the bonds aforesaid, shall be paid over into the hands of the treasurer, hereinafter provided for, for the purpose of paying the interest on the aforesaid bonds, as it becomes due.

Duty of judge
of county court.

§ 7. That immediately after the judge of the county court shall be notified of the subscription of said stock, he shall issue a summons to all the justices of the peace for said county to meet at the court house in said county of Henry, on a day to be appointed by him, to elect three persons, who shall be called the commissioners of the sinking fund

Commissioners.

of Henry county. That said commissioners shall immediately elect some suitable and fit person treasurer; and such treasurer, before he receives any moneys, under the provisions of this act, shall execute bond with surety, to be approved by the presiding judge of the county court, in double the sum received during the year then to ensue, under the provisions of this act, payable to the county court of Henry, and conditioned to account for and pay over, on the order of said commissioners, all funds which shall come to his hands under the provisions of this act; and said treasurer shall be allowed for his services not exceeding one per cent. of all moneys which he shall receive and pay over.

1852.

Their duties.

§ 8. That the said commissioners shall appropriate so much of the money as is herein reserved for that purpose, to the payment, at the city of New York, or elsewhere, of the interest on the bonds herein directed to be issued. They shall cast the votes to which the county of Henry shall be entitled in the railroad company, by reason of its stock subscribed, under the provisions of this act. They shall receive the dividends upon all such stock, and apply them, first, to the payment of the interest on the county bonds, and when a surplus shall accrue after the payment of such interest, they shall apply it to the purchase of said bonds, if they can be purchased at par; and if that cannot be done, they shall invest such surplus in some safe and profitable manner, and in such manner that when it shall at any time be wanted for the purchase or payment of the county bonds, it can be speedily and readily converted into cash for that purpose.

To cast vote of county.

§ 9. All the dividends which shall be received upon the stock in said railroad, shall belong to the county of Henry, and are hereby sacredly set apart as a sinking fund, to be only used, as above provided, for the payment of the principal and interest of the bonds which shall be issued by the county of Henry, under the provisions of this act.

Application of dividends.

§ 10. That after the whole of the bonds, and interest accruing thereon, shall be fully paid off, the dividends received upon said stock shall be laid out in the construction of either turnpike or plank roads in the county of Henry, as feeders to said railroad, under such rules and regulations as the legislature may hereafter prescribe.

Duty sinking fund commissioners.

§ 11. That the sinking fund commissioners shall keep a record of all their proceedings and doings; and their treasurer shall keep strict accounts of all moneys which shall be received or paid over by him, and shall annually, before the expiration of his time, settle the same in the Henry county court. The commissioners shall hold their offices one year, and be elected annually.

§ 12. That the subscription hereby authorized is to be made only upon condition that the railroad is to pass through the county of Henry.

Conditions touching subscriptions.

1852.

County to levy
a tax on certain
conditions.

§ 13. That if it should so turn out that the sum of twenty-five thousand dollars, reserved and set apart as aforesaid, shall be exhausted before the road shall declare dividends sufficient to pay the interest on said bonds, then it shall be the duty of the county court of Henry county to levy a tax upon the property of the citizens of the county sufficient to do so; and every person shall be a shareholder in said road equal to the amount of taxes so paid by him.

Approved January 7, 1852.

CHAPTER 337.

AN ACT to amend the charter of the Covington and Lexington Railroad Company.

Georgetown
branch road.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That said company shall have power and authority to extend, make, and construct a branch of said road through the town of Georgetown, Scott county, to intersect and connect with the Lexington and Frankfort railroad, at such point as may be thought most advisable. In the location and construction of said branch, in obtaining the right of way and materials, and in all other matters thereto pertaining, the company shall have the same power and control, and may proceed in the same manner, as in the construction of the main road.

Counties may
subscribe stock.

§ 2. It shall and may be lawful for any of the counties through which said branch road may pass, and they are hereby permitted to subscribe and hold stock in said company, upon the same terms and conditions, and subject to the same restrictions with other stockholders: *Provided, however,* that a majority of the qualified voters in such county who shall cast their votes, as herein provided for, shall be in favor of the subscription of such stock; and that no one county shall subscribe stock in said company to a larger amount than four hundred thousand dollars.

§ 3. That whenever the company aforesaid shall request the county court of any county through which said branch road will pass, to subscribe the bonds of said county for any portion of the capital stock of said company, not exceeding the amount hereby authorized, the county court shall, within sixty days thereafter, on a day to be by it designated, cause the vote of the qualified voters of the county, at the several election precincts and places of voting in said county, to be taken upon the question whether or not the court shall subscribe the stock as proposed; and in all matters pertaining to the taking of said vote, the subscribing for said stock, the issuing and execution of said bonds, the levying and collecting a tax to pay the interest thereon, and the appropriation and disbursement of the funds arising therefrom, the county court and said company shall be

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governed and regulated by the provisions of an act of the general assembly of Kentucky, entitled, an act to authorize the county court of Fayette and city of Lexington to subscribe stock in railroad companies, approved January 25, 1851; which said act and its provisions, so far as applicable, are hereby re-enacted as part of this.

§ 4. The county courts subscribing stock in said company, under the provisions of this act, are authorized to borrow money on behalf of the county, from time to time, to pay such subscription of stock, as the same may be required and payable, and pay; for such money so borrowed, any rate of interest not exceeding ten per centum per annum, and to bind the county for the payment of the money so borrowed, and its interest, by proper bonds and evidences given by said court, and which shall forever bind said county for payment thereof, according to their terms and stipulations.

County courts
may borrow money.

§ 5. The means for payment of all money so borrowed, and its interest, or of any bonds so given, shall, if necessary, be raised from time to time by an *ad valorem* tax upon the real and personal estate of said county, to be levied and collected as herein before directed and provided.

Means of pay-
ment.

Approved January 7, 1852.

CHAPTER 338.

AN ACT allowing an additional Magistrate's and Constable's district in Morgan county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, there shall be an additional magistrate's and constable's district in Morgan county, to be styled the Caney district, No. 9, and bounded as follows, to-wit: beginning at the South Fork meeting house, on Caney; thence a straight line to the county road leading from West Liberty to Hazle-green, at the forks of Little Caney, at the farm of Joseph McKinney; thence with said road to the ford of Grassy creek; thence up said creek to the house of the widow Stamper; thence up the point of the ridge between the two forks of said creek to the top of the dividing ridge between Red river and Grassy; thence with the dividing ridge to the waters of Caney; thence around the head of Caney and Johnson to the head of the Wheelrim fork; thence down the dividing ridge between the forks of Johnson to the creek at the farm of William Slykias; thence down the creek to the mouth of the Turkey branch; thence up the point below said branch; thence around the head of Grape creek; thence down the dividing ridge between Grape creek and White Oak to the county road, near Joshua Perkins' farm; thence with said road to the house of Daniel A. Allen, leaving him out of said district;

Limit of dis-
trict.

1852-

thence up the point to the top of the dividing ridge on the upper side of the Big Lick branch; thence around the head of said branch, and down the point of the ridge between the forks of White Oak; thence up the dividing ridge, on the upper side of John May's branch, to the dividing ridge between White Oak and Caney; thence down said dividing ridge to the point running down to the meeting house; thence down said point to the South fork meeting house, to the beginning, taking a part of the West Liberty, Hazlegreen, and Bloomington districts.

Place of vot-
ing located.

§ 2. That the county judge shall have full power to locate the place of voting, and appoint officers of election, as is prescribed now by law regulating elections.

§ 3. That the first election shall be held on the first Monday in August, 1852, and thereafter on the same day and time that justices of the peace and constables shall hereafter be elected.

Approved January 7, 1852.

CHAPTER 339.

AN ACT to incorporate Phoenix Insurance Company, at Lexington.

Style of corpo-
ration.

Corporate
powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Henry T. Duncan, W. A. Dudley, Daniel Brock, David A. Sayre, Richard A. Buckner, and Henry Bell, together with those who shall hereafter become stockholders, as hereinafter directed, shall be and they are hereby created and made a corporation and body politic, by the name and style of "the Phoenix insurance company, at Lexington," and shall continue in existence until the first day of January, eighteen hundred and eighty-five; and, by that name, are hereby made capable, in law, to have, to purchase, receive, possess, enjoy, and retain to themselves and their successors, lands, tenements, rents, hereditaments, goods, chattels, and effects; and the same to sell, grant, demise, alien, and dispose of: *Provided*, that said company shall not be capable of owning or holding, at any one time, real estate of greater value than twenty thousand dollars; also, to sue and be sued, answer and be answered, defend and be defended, in all the courts of this commonwealth and elsewhere; also, to make, have, and use a common seal, and the same to alter and renew at pleasure; also, to ordain and establish such by-laws and regulations as shall be deemed necessary for the government of the corporation and not contrary to law; and generally to do and execute all and singular the acts, matters, and things that a corporation may rightfully do.

Capital stock.

§ 2. That the persons named in the first section, or a majority of them, shall open books of subscription for the stock of said company; which stock shall consist of one thou-

and five hundred shares, with power in the president and directors to increase the stock to three thousand shares, of one hundred dollars each, payable in gold or silver coin; and at the time of subscribing, they shall have a right to demand and receive five dollars on each share, and to have secured the residue to the satisfaction of the corporation; payable in six months, which obligations may be renewed from time to time, either of the whole or such part thereof as the president and directors shall determine; and it shall be the duty of the president and directors to give at least thirty days notice of any call they may think it expedient to make; and in case of failure of any stockholders to meet such a call, or to secure the payment of the remainder, as aforesaid, it shall be lawful for the president and directors to sell such delinquent shares, and transfer the same to the purchaser, or declare them forfeited to the company, together with all previous payments thereon. No transfer of stock shall be deemed valid and complete, so long as the persons transferring the same shall be indebted to the said company, until the amount for which he is indebted is secured to the satisfaction of the president and directors. And the stock of every stockholder shall be held as a collateral security for the payment of whatever sum he may be indebted to said company, by notes for stock or otherwise.

§ 3. That so soon as five hundred shares of the capital stock of the company are subscribed, the stockholders shall meet at the place of opening the books for subscription of stock in said company, and at the office of the said company, on the first Monday in May, 1852, and also at the office of the said company on the first Monday in May in each succeeding year, and elect a president and six directors, who shall continue until the first Monday in May of the ensuing year, and until their successors shall be elected; of which elections, except the first, previous notice shall be given in the newspapers printed in Lexington at least two weeks; and in case of the death, resignation, or failure of the president to act as such, the directors may elect some person to fill such vacancy for the residue of the year; and no person shall be chosen a director who does not own ten shares of the stock.

§ 4. That in all elections by the shareholders, each share to the number of ten shall be entitled to one vote, and every five shares thereafter, owned by the same person, shall entitle him to an additional vote; but no person who is not a resident of the state of Kentucky shall have a vote; and no stockholder shall have a vote at any election for president and directors, unless he shall have been the owner of the stock one month prior to such election, by a regular transfer upon the books of the company; and shares may be voted on by the executor or administrator of the deceased owner, or by proxy.

1852.

President and directors' duty.

How delinquent stock may be disposed of.

Organization.

Number votes in proportion to shares.

1888.

President and directors may appoint either of them, and make rules.

§ 5. That the president and directors, for the time being, shall have the power to appoint such officers and agents under them, and at such places as shall be necessary for executing the business of said company, and to allow such compensation as may be agreed upon, and to require and take bond and security for the faithful discharge of their respective duties and trusts; and the said president and directors shall have the power to make by-laws and ordinances to govern the corporation, and may repeal, alter, and amend them; and the president and three directors shall constitute a quorum for the transaction of business, or four directors without the president, one of whom shall be chosen president for the time being.

May make in.

§ 6. That the president and directors, for the time being, shall have power and authority, in the name of the company, to make insurance at such rate of premium or interest as may be agreed upon by the parties, upon buildings, furniture, machinery; and, also, to make all kinds of insurance on every description of property transported by land or water; and likewise to make insurance on lives, by sea or water, or on shore, and to contract for, grant, and sell annuities; and to make all kind of contracts in which the casualties of life or property are involved; and every such contract, bargain, or agreement, or policy to be made by the said corporation, shall be in writing and print, or in either, and shall be signed by the president, and attested and signed by the secretary or clerk, who may be appointed by the president and directors for that purpose. And the said company shall have power to deal in bills of exchange, and to buy and sell notes: *Provided*, that the said company shall not at any time deal in or buy bills of exchange and notes, or either, to a larger amount than the capital of said company actually paid in.

How insurance signed, &c.

Dividends to be made.

§ 7. It shall be the duty of the president and directors, on the first Monday in May and November, in each and every year, to make a dividend of so much of the profits of the said corporation as to them shall appear desirable; and in case of any loss or losses whereby the capital stock of the said corporation shall be impaired or lessened, no subsequent dividend shall be made until a sum equal to such diminution, and arising from the profits of said corporation, shall have been added to the capital.

When payment on insurance to be made.

§ 8. That whenever said corporation shall have been notified of any loss sustained or incurred on any policy of insurance granted or issued by the same, it shall be the duty of said corporation to pay the amount so lost or incurred on such policy, within sixty days after being so notified: *Provided*, there shall have been no violation of the condition of the policy on the part of the insured.

Capital stock not to be loaned

§ 9. No dividend to the stockholders shall be made, so as thereby to lessen the amount of the capital stock paid in

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or secured by stock notes; and if any dividend shall be made in violation of this provision, each and every stockholder receiving such dividend, shall be liable to pay back the same to the creditors of said corporation, if necessary, for payment of its debts.

1852.

Approved January 7, 1852.

CHAPTER 340.

AN ACT for the benefit of the Police Judges of the towns of Hickman and Owenton.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the police judge of the town of Hickman, in Fulton county, be and he is hereby authorized to grant attachments, injunctions, and restraining orders in chancery, in said county, which, when granted in accordance with the existing laws, shall have the same force and effect as if granted by the circuit judge in vacation, or by the county judge of said county, in Fulton county.

§ 2. That the provisions of the first section of this act be and the same is hereby made to apply to the police judge of the town of Owenton, in the county of Owen, and the same power and authority is hereby given him in the county of Owen.

Approved January 7, 1852.

CHAPTER 341.

AN ACT to incorporate Mills Point Lodge, No. 120, of Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the members of, Mills Point Lodge, No. 120, of the masonic fraternity, of the town of Hickman, in Hickman county, be and the same are hereby created a body politic and corporate, by the name and style of Mills Point lodge, No. 120, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of purchasing and holding real and personal estate such as may be required for the use of said lodge, to receive all necessary conveyances, to sell, convey, and dispose of all such real or personal estate as they may now have, or hereafter acquire.

§ 2. That the management of the concerns of said corporation are hereby vested in Jesse Edmondson, the present master, R. P. Dodds, the senior warden, T. L. Milner, the junior warden, and Thomas A. Mitchell, the secretary, of said lodge, and their successors in office, who, or a majority of whom, shall have power to make all contracts

Style of corporation.

Corporators.

1852.

pertaining to the real or personal estate of said lodge; and service of process on any of them shall be sufficient notice to said corporation.

Corporate powers.

§ 3. That the persons named in the second section of this act, and their successors in office, who may be elected by the members of said lodge from time to time, shall have power to pass such by-laws, rules, and regulations, not inconsistent with the laws of this state, as may be necessary to the management and safe keeping of the property and other interests of the lodge; and in conveying real estate, it shall be necessary for the four officers of the lodge above named, or their successors, to join in such conveyance; and the legislature reserves to itself the right to alter, amend, or repeal this act at pleasure.

Approved January 7, 1852.

CHAPTER 342.

AN ACT to incorporate the Crab Orchard and Mount Vernon Turnpike Road Company.

Company created.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company is hereby formed for the purpose of making a turnpike or plank road, as the company may determine, from Crab Orchard, in Lincoln county, to Mount Vernon, in Rockcastle county, under the name and style of the Crab Orchard and Mount Vernon turnpike road company, and by that name and style, shall be a body politic and corporate.

Corporate name

Capital stock.

§ 2. The capital stock of said company shall be thirty thousand dollars, divided into shares of fifty dollars each; and subscriptions therefor shall be opened at such times and places as the commissioners, hereinafter named, shall select, and continue open until the capital stock shall be subscribed.

Commissioners.

§ 3. That J. Joplin, A. Smith, J. A. Moore, David Butcher, J. C. Williams, and Willis Adams, of Rockcastle county, and Jacob Guest, William Flack, J. S. Hansford, John Fish, and Solomon Roberts, of Lincoln county, are appointed commissioners to receive subscriptions to the capital stock of said company.

Contract.

§ 4. That said commissioners, or such of them as may act, shall procure one or more books, and the subscribers therein shall subscribe an obligation of the following tenor, viz: We, whose names are hereunto subscribed, do respectively promise to pay to the Crab Orchard and Mount Vernon turnpike road company the sum of fifty dollars for each share of stock set opposite our respective names, in such proportions and at such times as shall be determined on by said company.

Organization.

§ 5. That so soon as one hundred shares of stock shall

be subscribed, it shall be the duty of the commissioners, or such of them as may act, to give notice of a meeting of the stockholders, at such place as they may designate, for the purpose of electing officers of said company; said notice to be by advertisement for fifteen days previous to said meeting, at the towns of Crab Orchard and Mount Vernon; and in said election each stockholder shall be entitled to one vote for each share of stock owned by him in said company.

§ 6. The officers of said company shall consist of a president and five directors, a treasurer, and such other officers as they may think necessary to conduct the business of the company, who shall hold their offices for one year, and until others are elected.

§ 7. That when said company shall be thus organized, it shall have perpetual succession, and all the privileges and franchises incident to a corporation for a similar object, in the same manner and to the same extent as are conferred on other turnpike road companies.

§ 8. That said road shall be graded twenty feet in width, and its greatest elevation, if on the McAdam plan, shall not exceed four degrees, and if a plank road, not more than two degrees, and the part to be covered with stone or plank shall be not less than fifteen feet in width, and if covered with stone its depth shall not be less than nine inches.

Approved January 7, 1852.

1852.

Officers elected.

Officers.

Corporate powers.

Description of road.

CHAPTER 343.

AN ACT to incorporate the Louisville Locomotive Works.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Levin L. Shreve, George L. Douglass, David L. Beatty, and Joshua F. Bullitt, and those who may associate with them as stockholders, and their successors and assigns, are hereby created a body corporate and politic, until the year 1880, by the name of the Louisville Locomotive Works, for the purpose of manufacturing locomotives, engines, and cars, and other engines and machinery of every description, in the city of Louisville, in the state of Kentucky; and by that name are hereby made able and capable, in law, to take, hold, and possess such real and personal estate as may be necessary for the purposes of said corporation, and to sell, dispose of, and convey the same at pleasure; also, to sue and be sued, defend and be defended in all courts and places; they may have and use a common seal, and change and renew the same at pleasure; and for the purpose of carrying this act into effect, they may do all things which corporations for limited purposes may generally do; and may make and enforce such by-laws as they may deem necessary, not in-

Corporators

Duration of charter.

Corporate name and powers.

1852.	consistent with the laws and constitution of this state or the United States.
Capital stock.	<p>§ 2. The capital stock of said corporation shall not exceed five hundred thousand dollars, and shall be divided into shares of one hundred dollars each, to be subscribed for and taken agreeably to such rules and regulations as the corporators may direct. For all stock, when fully paid for, certificates shall be issued, under the seal of the corporation, signed by the president and countersigned by the secretary, which may be transferred on the books of the corporation, in person or by attorney in fact; and the assignee shall be entitled to a new certificate, upon the surrender of the old one; and the stock shall be deemed personal estate, pass, descend, and be held as such. Each share shall entitle the holder thereof to one vote in all elections, and at all meetings of the stockholders.</p>
Certificates.	
Opening of books.	<p>§ 3. Said Levin L. Shreve, George L. Douglass, David L. Beatty, and Joshua F. Ballitt, or any three of them, are authorized to open books for the subscription of stock in said corporation, at any time, after ten days advertisement of the time and place of opening the same in at least one of the daily newspapers published in Louisville; and so soon as two hundred shares are subscribed, they may call a meeting of the stockholders, at such time and place, in said city, as they may name, after notice delivered to each member, or published as aforesaid, at least five days previous thereto; and the stockholders, at such time, and on the first Monday in January in each year thereafter, shall elect a board of managers, to consist of a president and three directors, all of whom shall be stockholders to the amount of at least five shares each. The business of the corporation shall be confided to the said board of directors; and they may engage in such traffic, and employ such agents and laborers as they may deem necessary to carry on said business. On the first day of January in each year, a full and fair statement of the business of the preceding year shall be laid before the stockholders by the president of the board, and the board may then pay the profits to the stockholders. It shall be the duty of the board to publish a statement of the debts of the company, of the assessment of stock voted and paid in, and of the reduction of the capital stock of the company, in a newspaper published in said city, on the first day of January in each year, if any creditor of the company shall, at least ten days previously, require them to do so, by written request, and not otherwise.</p>
Organization.	
Election of managers.	
Duties of directors.	
Dividends.	
When go into operation.	<p>§ 4. The said corporation may go into operation so soon as two hundred shares are subscribed; and the stock not then taken may be sold at such time and in such manner as the board of directors may determine. The president and directors shall continue in office until their successors are elected and qualified; and if any member of the board</p>

shall die or resign, the remainder shall supply the vacancy for the residue of the term.

§ 5. A faithful record of the proceedings and correct accounts of the business and operations of the corporation shall be kept, which, with all the papers of the corporation, shall be subject to the inspection of the stockholders at all their general meetings.

§ 6. The stockholders, three-fourths in amount concurring, may at any time dissolve the corporation and wind up its business; but the capital stock shall not be reduced by dividing or withdrawing the same, until the debts of the corporation are paid, and said capital stock shall remain liable therefor.

Approved January 7, 1852.

CHAPTER 344.

AN ACT to authorize the County Court of Hickman to take and hold stock in the Ohio and Mobile Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county court of Hickman county may, and it is hereby made lawful for said court, by the county judge thereof, to subscribe for stock in the Ohio and Mobile railroad company, as is hereinafter provided for.

§ 2. That before said county court shall be permitted to subscribe for stock, in the name of said county, it shall be the duty of said court to call for the approbation of the legal voters thereof, by advertising an election to be held by the sheriff of said county, at the different voting places for holding county and state elections in said county, giving at least sixty days notice thereof, to be posted up by the sheriff at every place of voting in said county; said notices shall state the amount of stock which the court may propose to take or subscribe for; and if a majority of all the legal votes in said county be for the subscription, then the county judge of said county court may, and it is hereby made his duty to make the necessary arrangements to carry into effect the will of the majority of the voters in said county; but if a majority of the voters in the county do not vote for the subscription, then the question as to the propriety of subscribing for stock, as before provided for, shall not be again proposed by the court until after the expiration of four months, and then at the option of the court.

§ 3. That should said subscription of stock be authorized, as herein before provided for, then the said county court is hereby authorized and required, from time to time, to levy and collect a special tax upon all property in said county taxable by the revenue laws of this state, for the purpose of paying for the stock so taken and subscribed in said Mo-

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Vacancy—how filled.
Record.

Dissolution of company.

County may subscribe stock.

Vote thereon.

County court to levy tax to pay the same.

1892.

hile and Ohio railroad, according to the provisions of this act: *Provided, however*, that said court is hereby prohibited from levying and collecting a greater proportion of the whole amount subscribed than one-third thereof in any one year.

How money to
be expended.

§ 4. That the moneys herein provided to be raised shall be expended within the county of Hickman, or as near thereto as is practicable.

Collection of
the tax.

§ 5. That the tax specified in the first section of this act shall be assessed and collected by the county authorities of said county, in the same manner as county and state taxes are assessed and collected; and the powers for assessment and collection that are vested in the county authorities for the assessment and collection of county and state taxes, shall be held and taken to extend to the assessment of this special tax; and the bonds taken of the sheriff of said county for the security of the collection and payment of county and state taxes, and to provide against the sheriff in the collection of the revenue and county levy, shall be deemed to embrace this special tax; and for further security, the said county court may require the sheriff to give additional or enlarged bonds to cover this special railroad tax.

Payment of tax.

§ 6. That the tax collected under this act shall be paid directly to the treasurer of the Mobile and Ohio railroad company, or its duly authorized agent, whose receipt for such amount shall be a good voucher to the collecting officer in his settlement with the county court, after deducting four per cent. for the fees and costs of collecting. Defaulting tax payers and defaulting collectors of said tax shall be proceeded against in the same manner as such defaulters are proceeded against for default in regard to state and county tax.

Stock to be for
benefit of tax
payers.

§ 7. That the stock subscribed, as provided for in the foregoing sections of this act, shall enure to and be for the use and benefit of the several tax payers of said county; and in order more fully to carry out this intention, the sheriff of Hickman county shall record in a well bound book the names of all the tax payers under the provisions of this act, with the amount of their respective payments, the dates thereof, and the number of the certificate hereinafter provided to be given by him to each tax payer. Said book shall be preserved in the office of the clerk of the Hickman county court; and it shall be his duty, annually, to furnish a copy of the entries in said book to the Mobile and Ohio railroad company; and whenever any tax payer or payers shall pay the amount of tax assessed upon him, her, or them, to the proper officer, under the provisions of this act, he, she, or they shall receive from such officer a printed certificate, stating the amount so paid, with the date thereof, signed and numbered by said officer; and the

Tax payer to
have transac-
tion receipt.

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holder of such certificate shall be authorized to sell and transfer the same by assignment; and whenever any person or persons or corporation shall hold certificates, either as tax payers or as assignees of tax payers, amounting to one hundred dollars, he, she, or they shall be entitled to a certificate from the authorized agent or agents of said railroad company for one share of stock in said company, and so for every one hundred dollars in amount of such certificate that he, she, or they may hold, as aforesaid.

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Holder entitled
to certificate of
stock.

§ 8. That the certificates of stock shall not be demanded of said railroad company until after the return of the sheriff on the last installment of said county subscription: *Provided, however*, that the holders of the printed certificates derived from the sheriff shall be entitled to a vote in all meetings of stockholders, for each and every one hundred dollars in amount thereof: *And, provided further*, this act shall not in any way apply or extend to Wolf Island, or the property or citizens thereof.

When cer-
tificates may be de-
manded.

Approved January 7, 1852.

CHAPTER 345.

AN ACT for the benefit of the infant heirs of Elisha M. Ford, deceased.

WHEREAS, it is represented to the general assembly that Elisha M. Ford, late of the county of Ohio, died, leaving contracts for the sale of land unexecuted; and whereas, also, it is represented that tedious and doubtful law suits are likely to arise, and it is believed that it would be advantageous to the heirs of said Ford (all of whom are infants,) that the same may be settled amicably by compromise or cancelment of the contracts, and the guardian and mother of said infant heirs having petitioned for power to comply with said contracts, as to settle the same in an amicable, summary mode. For remedy whereof,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the guardian, for the time being, of Elizabeth Ford, John Ford, Eliza Ford, Ellen Ford, and James Ford, infant heirs of Elisha M. Ford, deceased, be and she is hereby vested with full power and authority to convey land, in pursuance of any written contract said Elisha M. Ford, deceased, may have made in his lifetime, by himself or his authorized attorney, and which, at the time of his death, was not complied with; but in no event shall she convey without the written assent of the administrator of said decedent. And the deeds so made by the guardian shall be as binding on the heirs as if the said Ford had conveyed in his lifetime, but no further.

Guardian may
convey land.

§ 2. That in deducing title through any deed which may be made under and by virtue of this act, it shall not be necessary to produce or prove the writing by virtue of which

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it was made, nor the written assent of the administrator, nor shall it be necessary in a contest with the heirs, unless the writing or assent aforesaid be denied on oath. But in all cases when it may be necessary to produce a deed made by virtue of this act, the same, or a duly attested copy thereof, shall be deemed and held by all courts in this commonwealth to be *prima facie* evidence that it was properly made upon valid authority.

May cancel contracts.

§ 3. That the said guardian, for the time being, in conjunction with the administrators, shall have, and they are hereby vested with full and complete power and authority to cancel any contract which said Elisha M. Ford, in his lifetime, may have made for the sale of land, when the purchaser or purchasers shall refuse to comply, if said guardian shall believe it to be of interest to the heirs so to do; or may submit the same to arbitration, before or after suit. And that in all cases where deeds may be made on contracts cancelled by virtue of any of the provisions of this act, the said infants shall have the same time allowed them, severally, after their arrival of age, to impeach the same, by suit or otherwise, that a court of chancery would have allowed them to open a decree, had the same been decreed by the chancellor.

Papers to be filed in clerk's office.

§ 4. That in all cases when the guardian shall make deeds or cancel contracts, under the provisions of this act, she shall take in the writing upon which she acted, and file the same with the clerk of the court, upon a settlement of the accounts, there to remain and be kept as other vouchers, for the inspection and benefit of the heirs and all others concerned.

Approved January 7, 1852.

CHAPTER 346.

AN ACT to amend an act, entitled, an act to extend the limits of the town of Hopkinsville, approved February 4, 1846.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act to extend the limits of the town of Hopkinsville, approved February 4, 1846, be so amended as to read, after the words "to a stake in S. J. Hawkins' field," as follows: thence north twenty-two degrees, east about eighty poles, to the river; thence up the same, with the several meanders thereof, to the beginning.

Approved January 7, 1852.

LAWS OF KENTUCKY.

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CHAPTER 347.

AN ACT to authorize the town of Paducah to subscribe stock in certain Railroads.

1852.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the chairman and board of trustees of the town of Paducah shall and they are hereby vested with the power and authority to subscribe, in the name of the town of Paducah, two hundred thousand dollars to the stock of the Ohio and Mobile railroad company; *Provided*, said company shall agree, in writing, to run and construct said road to Paducah; and in the event that the said Ohio and Mobile railroad is not constructed to Paducah, then the chairman and board of trustees are hereby vested with power and authority to subscribe, in the name of the town of Paducah, not exceeding two hundred thousand dollars to the stock of the Louisville and Nashville railroad company, or the New Orleans and Ohio railroad company, provided the terminus of either of said roads, so subscribed to, shall be at Paducah, or run through the same; and pay for said stock, subscribed under this act, in the bonds of the town of Paducah, payable at thirty years after date, with interest at six per cent. per annum thereon, payable half yearly; interest and principal payable in the city of New York, or other eastern cities. The said subscription shall be on such terms and conditions as the town of Paducah and the respective companies, in writing, may agree upon; and the stock and dividends in any of said companies, subscribed under this act, shall stand pledged for the payment of the interest and principal of the bonds issued to such company; and the surplus dividends on such stock, after paying the interest, shall be applied from time to time, in the purchase and withdrawal of said bonds, in such manner and under such directions as the respective companies may, in said writing, agree; and said writing shall also stipulate how the interest on said bonds shall be raised, until the dividends on the stock be sufficient to pay said interest.

Trustees may
subscribe stock.

Bonds to be
issued, &c.

§ 2. That no subscription shall be made, under the first section of this act, until after the chairman and board of trustees of the town of Paducah shall have passed an ordinance authorizing the same to be made, and prescribing the terms and conditions upon which it is proposed to make such subscription, and payment therefor; and if it is proposed to provide for the payment by taxation, such ordinance shall specify the descriptions of property upon which the tax shall be assessed, and the rate per cent. of said tax; which tax shall be levied on such property as may be subject to state taxation; nor until after such ordinance shall have been published at least twenty days, in at least one of the weekly public newspapers printed in the town of Paducah, nor until, on a day designated in such ordi-

Trustees shall
pass ordinance.

1852.

Vote of citizens to be taken

nance and after the publication provided for as above, the question as to such subscription shall have been submitted, in such form and under such regulations as may be provided by said chairman and board of trustees, to a vote of the voters of the town of Paducah qualified to vote for members of the general assembly of Kentucky, at the usual place of voting in said town; and if, after a submission to the voters aforesaid, a majority of all the legal voters in said town shall be cast for it, then the chairman and board of trustees of said town shall make such subscription, on the terms and conditions set forth in the ordinance authorizing the same, and not otherwise.

Tax-payers entitled to certificates of stock.

§ 3. That should any part of the principal or interest of the bonds of the town of Paducah, given in payment of any stock authorized to be subscribed under the provisions of this act, and paid for by taxation on the property of the inhabitants of said town, or those having property therein, then, in all such cases, all the stock obtained for the payment of the interest and of the principal shall be divided *pro rata* amongst those paying the tax; and such tax-payers shall be entitled to demand and receive a certificate so soon as he shall have paid for a full, a half, or a quarter share, or shall produce transfers from those who have paid portions, so as to entitle him to a full, a half, or a quarter share.

Trustees may have property assessed and appoint collector.

§ 4. The chairman and board of trustees of Paducah shall have the right to have the annual assessments of the real and personal estate of the town made for the purpose of this tax, and to appoint collectors for this tax, who they shall require to pay the tax, as collected, to the treasurer of said town, and the same to be, by order of the chairman and board of trustees, appropriated to the payment of the interest and principal of said bonds.

What property to be assessed.

§ 5. In making assessments for said railroad tax, the real estate and slaves shall be assessed, and each person shall give in, on oath, the amount he is worth over and above his real estate and slaves, after the payment of his debts; and if any person shall refuse to give a statement, on oath, as above required, the assessor shall make an estimate, and return the same, according to the best information he can obtain.

Approved January 7, 1852.

CHAPTER 348.

AN ACT to incorporate the Newport Fuel Company.

Company created.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That there shall be and is hereby established, in the city of Newport, Campbell county, a fuel company, with a capital of twenty-five thousand dollars,

to be divided into shares of five dollars each, and subscribed and paid for by individuals, in manner hereinafter mentioned and specified; which subscribers and stockholders shall be and are hereby created a body politic and corporate, by the name of the "president and directors of the Newport fuel company;" and shall continue such body politic and corporate from the passage of this act until the first day of January, 1880; and, by that name, shall be competent to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places, and in all matters whatsoever; with full power and authority to acquire, hold, possess, and use, occupy, and enjoy, and the same to sell, dispose of, and convey, such real estate as shall be necessary for the transaction of the business of the said company, and also any personal property or other estate which may be necessary in the transaction of the business of this corporation; and said company may have and use a common seal, and the same alter, change, break, and renew at pleasure; they shall also have the power of establishing and executing such by-laws, rules, and regulations as shall be necessary and proper for the good government of said company, and the prudent and efficient management of its affairs: *Provided*, that no by-laws, ordinances, rules, or regulations of the same shall in any wise be contrary to the constitution and laws of this state or of the United States.

§ 2. That the real and personal estate, business, property, funds, and prudential concerns of the said company shall be under the direction, management, and control of seven directors, who shall be stockholders, and owners of at least five shares each, residents of the city of Newport, and citizens of the United States; and after the first election, they shall be elected by the stockholders on the first Monday of June, annually, at such time and at such place, in the city of Newport, as the said directors, for the time being, shall appoint; and they shall hold their offices for the term of one year, and until their successors are chosen and qualified; and notice of every such election shall be advertised at least ten days next preceding the same, in one of the newspapers printed in Newport; which election shall be conducted by ballot, and a plurality of votes necessary to a choice, to be received and counted in public by and under the direction of three stockholders, under oath, and not directors at the time, and who shall be previously appointed by the board of directors for that purpose.

§ 3. At every election, and at all meetings of the stockholders, held under the provisions of this act, each and every stockholder shall be entitled to one vote for each share of stock up to five shares, and for every additional

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Capital stock.

Corporate name, duration, and powers.

Directors to manage affairs.

Election of directors, term of office, &c.

Right of stockholders at election.

1852.

five shares one vote : *Provided*, that no stockholder shall have more than ten votes ; and after the first election, no stockholder shall be entitled to the right of suffrage who has not been the rightful owner of stock at least three calendar months previous to the day of election. Any stockholder not personally present at such election, or other regular meeting of the stockholders, and having a right to vote, may vote by proxy, such proxy being granted directly to a stockholder attending at such election or meeting : *And, provided further*, in case it should so happen that an election of directors should not be made on the day when, by this act, it ought to have been made, this corporation shall not for such cause be dissolved, but it shall and may be lawful for said stockholders to make an election of directors on any other day, in such manner as may be provided for by the by-laws of said company.

Directors to
elect a president

Vacancies—
how filled.

§ 4. That the directors, chosen under the provisions of this act, shall, as soon as may be after the first and every annual election, elect from their own body a president, who shall preside in the board until the next annual election ; and in case of his death, resignation, or absence, a president *pro tempore* shall be appointed. The directors may also fill all vacancies in their own body, during the time for which they are or shall be elected, and shall appoint such agents, officers, clerks, and assistants as they may deem proper, fix their compensation, define their powers, prescribe their duties, and require from them such bonds and securities as they may deem necessary.

Corporate
powers.

§ 5. That this company, having for its object the supply of fuel to the stockholders and others, at fair and regular prices, at all seasons of the year, therefore it shall be lawful for the president and directors to vest any part of their funds in coal mines, or lands containing coal, for the purpose of furnishing fuel to the stockholders and others, on the most advantageous terms ; but the company shall not at any time have invested in lands and coal mines more than twelve thousand dollars ; and they shall have power to construct, have constructed, purchase, charter, or otherwise employ boats or any other conveyance which, in their opinion, will be best adapted to convey such fuel to market ; they shall also have power to lease land for wood yards and coal yards ; and may at any time use their funds in purchasing coal, wood, and boats containing the same, horses and drays, if deemed expedient.

May fix a price
on fuel.

§ 6. It shall be lawful for the president and directors to fix such a price upon the fuel, sold or for sale, that all the charges and expenses of the company shall be fairly met by the receipts, allowing an annual surplus upon the capital stock paid in, not exceeding twenty per cent., to be divided among the stockholders in proportion to the number of shares of stock paid for and held by each, unless ac-

Dividend.

dent or unforeseen disasters should occur to prevent a dividend; and if losses to the company should be the consequence of such accidents or disasters, then the stockholders to bear the loss in proportion to the stock owned by each; but the company may reserve a contingent or surplus fund out of the profits, to meet any accident.

§ 7. That the funds of said company shall have for its object, and shall be used for the specific object of furnishing the city of Newport with fuel, so far as practicable.

§ 8. That the stockholders of said company shall at all times, upon application to the company, or their agents, have the preference in receiving any amount of coal which they may require for the use of their manufactories, private houses, stores, &c., during one year: *Provided*, a sufficient quantity is on one hand to supply all the stockholders: *And, provided further*, that the amount required is not greater than the amount or value of the stock owned by the applicants; if, however, it should be at any time necessary to curtail the quantity furnished to each, then it shall be in proportion to the stock owned by each stockholder.

§ 9. If any stockholder shall neglect or refuse to pay any installments, after twenty days notice of the time and place of payment, by advertisement published in some newspaper of the city of Newport, it shall be the duty of the directors to collect the deficient installments by suit, with interest and costs thereon from the time such unpaid installments had become due; and no delinquent stockholder shall have a right to transfer any share or shares in said stock, nor to vote at any meeting of the company, on any share for which he may be delinquent.

§ 10. That a majority of the directors may at any time call a meeting of the stockholders, by giving ten days notice thereof in a newspaper printed in the city of Newport; and any number of stockholders who possess, in their own right, one-fifth part or upwards of all the stock on hand, may at any time call a meeting of the stockholders, appoint committees for examining the books of the company, and receive reports: *Provided*, ten days notice be given, under their hands.

§ 11. That Robert D. Hayman, Morris Shipley, and Dominic Tyler, of the city of Newport, are hereby constituted and appointed commissioners to open books and receive subscriptions for the capital stock of said company, and to superintend the election of the first board of directors thereof, any two of whom shall be competent to exercise the powers and perform the duties required of them by this act; they are hereby authorized, at any time after the passage of this act, having given notice in one daily paper printed in Newport, for ten days, to open books of subscription, at some suitable place or places in Newport, for the capital stock of said company, and to keep such

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Object of the company.

Stockholders preference in supply of fuel.

Defaulting stockholder.

Meetings of stockholders.

Books to be opened.

Commissioners' duties.

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Election of directors.

books of subscription open from 9 A. M. until 3 P. M., or longer, for thirty days, exclusive of Sundays, when they shall be closed; and if the amount of stock taken shall amount to one thousand dollars, then the said commissioners, or a majority of them, shall notify the stockholders of the amount taken, and proceed to hold an election, after ten days notice in at least one daily newspaper printed in Newport; and a majority of said commissioners shall act as judges and inspectors of said election, having taken the steps to give proper notice. And should the subscription book be closed without a subscription to the amount of one thousand dollars, then the said commissioners, or a majority of them, may cause the books to be re-opened at any time within the year 1852; or should the subscription exceed the sum of one thousand dollars, and fall short of the capital stock, then the books may be re-opened for subscriptions, under the control of the board of directors.

Payment at time of subscription.

§ 12. That for every share of stock subscribed to the said company, the commissioners, or their agents, shall receive, at the time of subscribing, or before the election of the first board of directors, the sum of one dollar; the residue thereof shall be paid in such installments and at such times as may be required by the president and directors of the company.

Approved January 7, 1852.

CHAPTER 349.

AN ACT to authorize the County Court of McCracken to subscribe stock in certain railroads.

County court may subscribe to stock.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the county court of McCracken county shall, and they are hereby vested with power and authority to subscribe, in the name of the county of McCracken, one hundred thousand dollars to the stock of the Ohio and Mobile railroad company: *Provided,* said company shall agree, in writing, to run and construct said road to Paducah; and in the event that the said Ohio and Mobile railroad is not to Paducah, then the county court of McCracken county shall, and they are hereby vested with power and authority to subscribe, in the name of the county of McCracken, one hundred thousand dollars to the stock of the Louisville and Nashville railroad company, or the New Orleans and Ohio railroad company: *Provided,* the terminus of either of said roads, so subscribed to, shall be at Paducah, or run through the same; and pay for said stock, subscribed under this act, in the bonds of the county of McCracken, payable at thirty years after date, with interest at six per cent. per annum thereon, payable half yearly; interest and principal payable in the city of New

Bonds to be issued.

1852.

York, or other eastern cities. The said subscription shall be on such terms and conditions as the county of McCracken and the respective companies, in writing, may agree upon; and the stock and dividends in any of said companies, subscribed under this act, shall stand pledged for the payment of the interest and principal of the bonds issued to such company; and the surplus dividends on such stock, after paying the interest, shall be applied, from time to time, in the purchase and withdrawal of said bonds, in such manner and under such regulations as the respective companies may agree in said writing; and said writing shall also stipulate how the interest on said bonds shall be raised, until the dividends on the stock be sufficient to pay said interest.

§ 2. That no subscription shall be made under the first section of this act, until after the county court of McCracken county shall have passed an ordinance authorizing the same to be made, and prescribing the terms and conditions upon which it is proposed to make such subscription, and payment therefor; and if it is proposed to provide for the payment by taxation, such ordinance shall specify the descriptions of property upon which the tax shall be assessed, and the rate per cent. of said tax; which tax shall be levied on such property as may be subject to state taxation; nor until after such ordinance shall have been published at least thirty days, in at least one of the weekly public newspapers printed in the town of Paducah, nor until, on a day designated in such ordinance, and after the publication provided for as above, the question as to such subscription shall have been submitted, in such form and under such regulations as may be provided by said county court, to a vote of the voters of the county of McCracken qualified to vote for members of the general assembly, at the usual places of voting in said county; and if, after a submission to the voters aforesaid, a majority of all the legal votes in said county shall be cast for it, then the county court shall make such subscription on the terms and conditions set forth in the ordinance authorizing the same, and not otherwise.

§ 3. That should any part of the principal or interest of the bonds of the county of McCracken, given in payment of any stock authorized to be subscribed under the provisions of this act, and paid for by taxation on the property of the inhabitants of said county, or those having property therein, then, in all such cases, all the stock obtained for the payment of the interest and of the principal, shall be divided, *pro rata*, amongst those paying the tax; and such tax payers shall be entitled to demand and receive a certificate, so soon as he shall have paid for a full, a half, or a quarter share, or shall produce transfers from those who

No subscription to be made until citizens vote in favor thereof.

How election conducted.

Tax-payers entitled to certificates.

1852.

have paid portions, so as to entitle him to a full, a half, or a quarter share.

Assessment.

§ 4. The county court of McCracken county shall have the right to have the annual assessments of the real and personal estate of the county made for the purpose of this tax, and to appoint collectors for this tax, who shall be required by them to pay the same, as collected, upon the interest or principal of said bonds, as the same may be necessary.

Appointment of collectors.

What property to be taxed.

§ 5. In making the assessment for said railroad tax, the real estate and slaves shall be assessed, and each person shall give in, on oath, the amount he is worth, over and above his real estate and slaves, after the payment of his debts; and if any person shall refuse to give a statement, on oath, as above required, the assessor shall make an estimate and return the same, according to the best information he can obtain.

Approved January 7, 1852.

CHAPTER 350.

AN ACT to incorporate Albion Female Collegiate Institute.

Corporate name and powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Solomon Prettyman, George Morin, E. L. Southgate, William B. Ross, H. H. Mayo, Wm. M. Hawkins, and S. S. Lurton be and they are hereby appointed a body politic and corporate, by the name and style of the "Albion Female Collegiate Institute;" and, by that title, they, and those who may become stockholders as hereinafter provided for, and their successors, shall have perpetual succession; and, by that name and style, are hereby made capable, in law, as natural persons, to contract and be contracted with, to sue and be sued, to plead and be impleaded, in this commonwealth and elsewhere, in all courts of law or equity; to acquire, hold, and convey property, both real, personal, and mixed; and to receive donations of money, land, or other property. They shall have power to establish such by-laws, ordinances, and regulations as shall be necessary for the good government of the corporation, not inconsistent with the laws and constitution of this state or the United States.

Capital stock.

§ 2. The capital stock of said company shall consist of one hundred shares, of one hundred and twenty-five dollars each, to be subscribed for, or sold in the manner hereinafter named; and the persons named, as aforesaid, or a majority of them, shall cause a public advertisement to be made of the time and place of opening books for the subscription of stock; which books shall be kept open until at least twenty shares shall be subscribed; and when twenty shall

have been subscribed, the said persons, or a majority of them, shall call a meeting of the shareholders, and they shall thereupon proceed to elect five trustees; and those persons named, who are not then shareholders, shall cease to be members of this corporation. At the election of trustees, each shareholder shall be entitled to one vote for each share he may own: *Provided*, that such shareholder shall have paid to the persons above named, ten per cent. on the amount of stock subscribed. The trustees, thus chosen, shall continue in office until the first Monday in January ensuing thereof, and until their successors are elected; and on the first Monday in January, the stockholders shall meet, in person or by proxy, at such place as the said trustees may select, and elect trustees for the ensuing year.

§ 3. The entire business and management of the corporation shall be under the control of said trustees, or a majority of them; they shall make such calls on the stockholders, payable at such periods and places as they may deem proper, with such conditions of forfeiture for non-compliance, (not exceeding the amount of stock delinquent,) as they may deem right and proper; and said trustees may, from time to time, re-open the books for the subscription of stock, until the whole number of shares have been taken. Should they deem it for the advantage of the company, said trustees may make contracts with any person or persons for the purchase of ground, and the erection of such buildings as may be required for said collegiate institute, or may receive ground, or a part thereof, as a donation, and do all things needful for the erection of the buildings, and the completion of the same; they may receive conveyances for such real estate as may be required for the location of said institute, and may take bond or other security from such person or persons as they may contract with; and in the event of the death or resignation of any of the trustees, they may supply the vacancy until the next annual election.

§ 4. That the trustees shall have power to appoint a president or principal of said collegiate institute, and such other professors and instructors as may at any time be necessary for the instruction of the pupils therein, in the arts and sciences, and in all necessary, useful, and ornamental branches of a thorough and liberal education, such as are taught in the best female colleges or academies; and shall fix their salaries from time to time; and shall make such rules and regulations for the government and conduct of said institute as they may deem expedient, and may appoint a dean, treasurer, and secretary, and require and accept such bond or bonds from them as they may deem requisite for the safety of the institute, and shall also fix their salaries. They may confer on those pupils whom they may judge worthy all such honors and literary degrees as are

1852.

Organization
of company.

Trustees; elec-
tion.

Trustees; their
duties, &c.

Vacancies—
how filled.

They may ap-
point professors.

May confer de-
grees.

1852. usually conferred by the best female colleges and academies.
- Chairman. § 5. Said trustees shall appoint one of their own body as chairman, and a majority shall form a quorum to do business.
- Certificates of stock. § 6. That when a shareholder has paid up his stock in full, a certificate of stock shall be issued to him or her, which shall entitle the holder to the privilege of sending one scholar to said institute, from year to year, perpetually: *and, provided further*, that all scholars, entered upon certificates of perpetual scholarship, shall pay for such instruction only in branches of attainment that are considered ornamental, and are charged extra for in other and similar institutions. The certificates of stock shall be signed by the treasurer and chairman of the board of trustees, and shall be assignable on the books of the company only; *and, provided further*, that such assignment or transfer of stock shall be first tendered to the trustees, for the benefit of the company.
- All funds to be for educational purposes. § 7. That all funds, lands, or personal property which may come into the hands of said trustees, under the provisions of this act, shall be used only for educational purposes, and the permanent advancement and interest of said institute. That if the expenditures of the first scholastic year shall exceed the receipts for tuition, an assessment *pro rata* shall be made by the trustees upon the stockholders, in amount sufficient to meet the same.

Approved January 7, 1852.

CHAPTER 351.

AN ACT to charter the Hamilton and Union Turnpike Road Company.

Corporate name and objects.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company be and is hereby formed and created a body politic and corporate, by the name and style of the Hamilton and Union turnpike road company, for the purpose of constructing an artificial road on the McAdams plan, from a point on the Ohio river, in the town of Hamilton, at that point that is usually used for a steamboat landing; running thence with the general direction of the Big Bone road, passing the point of junction of the Cincinnati and Beaver roads; thence through the lands of J. J. and J. A. Miller, William Howlett, East Click, and others, to the nearest point of the Union and Florence turnpike road.

Capital stock.

§ 2. The capital stock of said company shall be twenty thousand dollars, to be divided into shares of twenty-five dollars each.

Books to be opened.

§ 3. That a book or books may be opened for the subscription of stock in said company—at Hamilton, under the di-

1852.

rection of M. M. McManama, Esau Click, J. A. Miller, William Howlett, and Thomas Huey, as commissioners, on the first Saturday in January, A. D. 1852, or as soon thereafter as may be convenient, and the commissioners shall direct; and they may continue the books open as long as they may deem expedient.

§ 4. The subscribers shall, in the books of the company, enter into the following obligation, to-wit: "We, whose names are hereunto subscribed, do respectively promise to pay the president, directors, and company of the Hamilton and Union turnpike road company, twenty-five dollars for each share of stock set opposite to our names, at such times as we may designate, and pay the same in such proportions and at such times as the said president and directors may require, after the same becomes due and payable. Witness our hands this the day of : " which amounts shall be collected in the proper courts.

Contract.

§ 5. So soon as five thousand dollars is subscribed to the capital stock of said company, it shall be the duty of the commissioners named in the third section of this act, to give notice, in such manner as they may think proper to designate, for the purpose of electing a president and five directors; and one vote shall be allowed for each share of stock; and the president and directors shall continue in office for one year, and until their successors are duly elected. The times and places for all elections, after the first, shall be fixed by the president and directors of said company, for the time being. A majority of the commissioners shall be competent to transact all business.

Organisation.

Election of directors.

§ 6. So soon as said company is organized by the election of officers, the president and directors shall be a body politic and corporate, in fact and in law, under the name and style of the Hamilton and Union turnpike road company, and, by that name and style, shall have perpetual succession, and all the privileges and franchises incident to a corporation; shall be capable of holding their capital stock, and the increase and profits thereof; and of taking and holding, by purchase or gift, all such lands, tenements, hereditaments, real and personal property, as may be necessary for the prosecution of their works, or the objects of this corporation. They shall have power to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, in any court of law or equity, or elsewhere; also, to have and use a common seal, and generally to do all and every matter or thing which a corporation may lawfully do, to effect the objects for which this corporation is created.

Corporate powers.

§ 7. That so much of an act, entitled, an act to incorporate the Warsaw turnpike road company, approved February 12, 1849, as is embraced in sections seven, eight, nine, ten, and eleven, be and they are hereby re-enacted.

Provisions adopted.

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and adopted as part of this act, except that in section nine where the word "Gallatin" is used in said section, the word "Boone" shall be used in this act: *Provided*, that nothing herein shall authorize any subscription of stock by the state.

Approved January 7, 1852.

CHAPTER 352.

AN ACT in relation to the districts in Franklin county.

Boundary of
district No. 1.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, hereafter, the boundary of district No. 1, in the county of Franklin, shall be as follows, to-wit: beginning on the Kentucky river at the farm lately owned by Peter Mills, now occupied by George H. Pierce; thence with the lower line of said farm to the farm of P. S. Fall, and with his line, and through the farm owned by Mrs. E. Bacon's heirs, to the tract of land owned by Isaac Calvert, known as the Saunders tract, including the farms aforesaid; thence in a line to include the present residences of Charles McDaniel, Mrs. Frances Price, and Charles Watkins; thence in a line to intersect the Owenton road, at the mouth of the lane between the farms of Alexander Snelling and Isaac Calvert, including the farm of said Snelling; thence with the Owenton road to the dividing line between said Calvert and John Morris, and with the same, and the line of said Morris and William Lillis and Henry Giltner, (the Innis farm,) to the Stedman's mill road, where the Peak's mill road crosses the same, including the farms of the said Lillis and Giltner; thence with the Stedman's mill road to a point on Elk-horn opposite the ford below the mills of said Stedman; thence to said ford on said creek, and up the same, to include the lands of E. & S. Stedman; thence to the road that intersects the Georgetown turnpike, near Moxley's pond, and with said road to the turnpike, crossing the same; thence through the lands of D. C. Freeman and S. F. J. Trabue, including their present residences, to the Versailles turnpike road, at the junction of the Cole's road with the same, near the old Pulliam farm; thence with said turnpike road to the Woodford county line, with the same to the Kentucky river, down the same to a point opposite the present residence of William W. Witt; thence crossing the same, and through the lands of said Witt and Franklin Dillon, to the Arnold's ferry road, at the foot of Crockett's hill, including the farms of said Witt and Dillon; thence with the Arnold's ferry road to where it intersects the Lawrenceburg road at Talbott's farm; thence with said road to where it intersects the Louisville turnpike; thence with said turnpike to the farm lately owned by

Robert Hamilton, including the same; thence to William N. Crutcher's, including the same; thence to Mrs. Nancy Crutcher's; thence in a straight line to W. T. B. Pearce's residence, including Mrs. Crutcher and the said Pearce; thence in a straight line to White's branch, and down the same to South Benson, down same to main Benson, down said creek to the farm owned by Owen's heirs, to the house of L. Wooldridge, on said farm, including said farm; thence with the creek to the farm owned by Dr. P. Major, including the same; thence to the Stony creek road, and with the same to Stony creek, crossing the same below the residence of Milton Simonis; thence through the lands of Charles Penn, Sr., and William L. Scott, to the Kentucky river, including the residences of said Penn and Scott; thence up said river to the beginning.

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§ 2. That the boundary of district No. 4 be changed as follows, viz: beginning on the Newcastle road, in front of the house now occupied by Leroy Wooldridge, in a line of district No. 1; thence with said road to the Shelbyville road, and with the same to the Newcastle road above Mrs. Landon Sneed's; thence with said road to a point opposite the residence of Wesley Wade; thence in a straight line to the Shelby county line; thence with said county line to the railroad; thence with the boundaries of said district, as heretofore prescribed by the commissioners, except as changed by the foregoing section.

Boundary of
district No. 4.

§ 3. That the boundaries of the districts in Franklin county, as heretofore laid off and numbered by the commissioners, shall remain, except so far as they are changed by this act.

§ 4. That the place of voting in district No. 5, known as Bald Knob district, be changed from the house of J. E. Brawner to the school house near John Tracy's residence, known as Tracy's school house.

Place of vot-
ing in No. 5
changed.

Approved January 7, 1852.

CHAPTER 353.

AN ACT to amend an act, entitled, an act prescribing the means and mode of opening and working roads in Boone county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Boone county court to allow to the clerk of said court a reasonable compensation for all services by him performed, or to be performed, under said act, to be paid to him out of the road funds of said county.

Approved January 7, 1852.

1852.

CHAPTER 354.

AN ACT to incorporate Adams Fork Lodge, No. 179.

Corporators.

Corporate name
and powers.

Trustees.

Repealing
power reserved.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Thomas Massie, Edmund Roach, and John Hall, and the members of Adams Fork lodge, No. 179, of free and accepted masons, in Ohio county, be and they are hereby enacted a body politic and corporate, by the name and style of Adams Fork Lodge, No. 179, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, suing and being sued, of purchasing and holding all such real and personal estate as may be required for the use of said lodge; to receive all necessary conveyances, to sell and convey all such real or personal estate as they may now have or hereafter acquire. The amount vested in real estate, exclusive of buildings thereon, shall at no time exceed one thousand dollars.

§ 2. The management of the concerns of said corporation shall be and is hereby confided to the master and wardens of said lodge, for the time being, and their successors in office, as trustees thereof, who, or a majority of whom, shall have full power to make all contracts pertaining to the real or personal estate of said lodge; and service of process or notice on any of said trustees shall be sufficient notice to the corporation.

§ 3. That the general assembly reserves the right to repeal or amend the provisions of this act at pleasure.

Approved January 7, 1852,

CHAPTER 355.

AN ACT to incorporate certain Turnpike Roads in the county of Garrard.

Lancaster and
Danville Com-
pany.Bryantsville
and Harrods-
burg.Lancaster and
Richmond.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the persons who shall subscribe for stock in a turnpike road to be constructed from Lancaster to Dick's river, near the mouth of the Hanging Fork, be a body corporate, under the style of the Lancaster and Danville turnpike company; that the persons who shall subscribe for stock in a turnpike road to be constructed from Bryantsville, in Garrard county, to Dick's river at King's mill, be a body corporate, under the style of the Bryantsville and Harrodsburg turnpike company; that the persons who shall subscribe for stock in a turnpike road to be constructed in said county, from Lancaster to Paint Lick, by Spillman's store, be a body corporate, under the style of the Lancaster and Richmond turnpike company; and that the persons who shall subscribe for stock in a turnpike road in said county, from Lancaster to the mouth of Paint Lick, by Buckeye and Teetersville, be a body cor-

porate, under the style of the Lancaster and Kentucky river turnpike company.

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§ 2. The capital stock of the Lancaster and Danville turnpike company shall be twenty-five thousand dollars; the capital of the Bryantsville and Harrodsburg turnpike company shall be twenty thousand dollars; the capital of the Lancaster and Richmond turnpike company shall be fifty thousand dollars; and the capital of the Lancaster and Kentucky river turnpike company shall be fifty thousand dollars.

Capital stock

§ 3. The following persons shall be commissioners for obtaining subscriptions of stock in the said companies, to-wit: for the Lancaster and Danville turnpike company, B. F. Duncan, Jennings Price, and N. Sandifer; for the Bryantsville and Harrodsburg turnpike company, J. S. Hoskins, J. M. Myers, and Jeff. Yantis; for the Lancaster and Richmond turnpike company, G. J. Salter, Allen Hiatt, and J. H. Spilman; and for the Lancaster and Kentucky river turnpike company, Hall Anderson, E. Stormes, and William Teeter. The said commissioners may open books for subscription of stock in their respective companies, at such times and places as they shall designate: *Provided*, that notice be given previously, published in the Garrard Banner, at least three weeks successively, of the time and place; and no person shall subscribe less than one share, which shall be fifty dollars.

Commissioners for subscriptions of stock.

§ 4. The affairs of each of said companies shall be managed by a president and five directors for each; the directors to be annually elected by the stockholders, each share of stock entitling the holder to one vote; and the president, who shall be a stockholder to the amount of five shares, shall be annually elected by the directors.

Directors to manage affairs.

§ 5. The county of Garrard may, through its county judge, subscribe in the Lancaster and Danville turnpike company two thousand dollars; in the Lancaster and Richmond turnpike company four thousand dollars; in the Lancaster and Kentucky river turnpike company four thousand dollars; and in the Bryantsville and Harrodsburg turnpike company fifteen hundred dollars: *Provided*, the voters of said county shall so decide at the polls, as hereinafter prescribed.

County of Garrard may subscribe.

§ 6. An election shall be held on the first Monday in April next, at the several places of voting in said county, for determining whether any or all of the said sums shall be subscribed by the county judge in any or all of said companies; and if a majority of all the qualified voters of said county shall vote for subscribing for stock in any of said companies, the subscription shall be made accordingly. The sheriff of said county shall, by himself and deputies, with the aid of judges of the election, to be appointed by the county judge for each place of voting, superintend the

Votes on subscribing.

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election; and the sheriff shall, previously to the day of election, give notice thereof, by publication in the Garrard Banner, and by printed handbills fixed to some conspicuous place at each place of voting, for three successive weeks.

Charter of the
Maysville and
Lexington rail-
road adopted as
far as applicable

§ 7. In all other respects and for all other purposes, within the scope of the objects of this act of incorporation, the charter of the Maysville and Lexington railroad company shall be the law of each of the companies hereby chartered, as far as the same may be applicable.

Vote on sub-
scribing to the
Lancaster and
Crab Orchard
turnpike.

§ 8. The same voters, and at the same time of voting as aforesaid, may vote whether said county shall subscribe twenty-five hundred dollars for stock in the Lancaster and Crab Orchard turnpike company; and if a majority of all the qualified voters in said county shall vote therefor, the county judge shall make the subscription accordingly.

Tax to pay the
subscription.

§ 9. If stock shall be subscribed for said county in all or any of said companies, the amount thereof shall be levied by the county judge and collected, *ad valorem*, as state taxes are levied and collected, one-third of the entire sum in one year, and the remainder, in equal portions, in the next two years.

Approved January 7, 1852.

CHAPTER 356.

AN ACT to amend the Charter of the Louisville and Elizabethtown Turnpike Road Company.

Division of
company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the portion of the stockholders in the Louisville and Elizabethtown turnpike road company, who reside within the county of Jefferson and city of Louisville, be and they are hereby constituted a separate body corporate and politic from the remainder of the said road and stockholders, with the same powers, privileges, and immunities, and subject to the same liabilities as though the separation had not been made; and that all that portion of said road which lies between the mouth of Salt River and the city of Louisville shall be under the control and management hereby created.

Part of former
charter repealed

§ 2. That so much of the charter of said road as requires that said road shall be covered with stone or gravel, be and the same is hereby repealed; and said company may cover said road, or any part thereof, with plank, stone, or gravel, in the usual manner of making plank, stone, or gravel roads.

§ 3. That so much of the original charter as requires the election of a president and managers of said road, so far as it may be applicable to the stockholders who reside in the county of Jefferson and city of Louisville, be and the

same is hereby repealed; and the above mentioned stockholders are hereby authorized to elect a president and five managers, who shall have all the powers, privileges, and immunities which have heretofore been granted to the original company, and be subject to the same penalties and restrictions.

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Jefferson county stockholders may elect managers.

§ 4. That the corporation hereby created shall be known by the name and style of the Louisville and Salt river road company.

Corporate name

§ 5. That so much of the original charter, and amendments made thereto, as requires that portion of the managers shall reside in the county of Jefferson, is hereby repealed; and, hereafter, that portion of said road and stockholders within the county of Hardin shall be separate from those in Jefferson, and shall elect a president and five managers, who shall have all the rights, privileges, and immunities heretofore pertaining to said company, so far as they may be applicable to the county of Hardin, and shall be subject to the same penalties and liabilities; and said road company shall be known by the name and style of the Elizabethtown and Salt river road company.

Company in Hardin formed.

§ 6. That all laws heretofore passed requiring or authorizing said original company to construct a bridge over Salt river be and the same is hereby extended and continued in force until the first day of January, 1855; and the companies hereby created, in Jefferson and Hardin counties, may either build said bridge separately or jointly, as may be agreed upon by them.

Corporate name

Former law extended.

Building of bridge.

§ 7. That nothing herein contained shall affect or exonerate any portion of said road or the original company from any debt or liability it may owe, or be under obligation to pay; but all creditors shall have their remedy against the property of the whole road company, as heretofore.

Road liable for its debts.

§ 8. That this act shall not be in force until a majority of the votes of the stockholders, voting by themselves or by proxies, of said company shall be given in favor thereof, at an election to be held for that purpose, at the house of Mrs. Lewis, in West Point, on the day of the next annual election of stockholders.

Act to be approved of by the stockholders.

Approved January 7, 1852.

CHAPTER 357.

AN ACT to incorporate the Nashville and Cincinnati Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act, entitled, an act to incorporate the Nashville and Cincinnati railroad company, passed in the month of December, 1851, by the legislature of

Act of Tennessee re-enacted.

1852.

Tennessee, shall be and the same is hereby made operative within the state of Kentucky, so far as its provisions are applicable, and not inconsistent with the succeeding sections of this act, which said act of incorporation is in the words and figures following, to-wit:

AN ACT to incorporate the Nashville and Cincinnati Railroad Company.

Company
chartered.

§ 1. *Be it enacted by the General Assembly of the State of Tennessee*, That for the purpose of establishing a communication by railway between the city of Nashville and Cincinnati, through the town of Gallatin, in the county of Sumner, either by connecting with the Lexington and Danville railway at Danville, or elsewhere, in Kentucky, or with any other railway, in the state of Kentucky, which may approach the Tennessee line, or with any railway which may be incorporated by the commonwealth of Kentucky, the formation of a company is hereby authorized; which, when formed, shall be a body corporate, by the name and style of the Nashville and Cincinnati railroad company; and by said corporate name shall be capable, in law, to buy, receive by gift, hold, sell, and lease and convey real and personal estate, make contracts, sue and be sued, to make by-laws, and do all lawful acts properly incident to a corporation, and necessary and proper to the transactions of the business for which it is incorporated; and to have and use a common seal, and the same to alter and destroy at pleasure; and shall have perpetual succession of members.

Corporate name
and powers.

Commissioners.

§ 2. *Be it enacted*, That Samuel D. Morgan, Alexander Allison, John M. Hill, John Shelby, Samuel R. Anderson, John M. Bass, Andrew Ewing, Willoughby Williams, Jacob McGalock, A. V. S. Lindsley, and ——— Wetmore, of the county of Davidson; Lee Shute, George Dismukes, William C. Moore, Daniel Donalson, Bennett Duglass, William M. Blackmore, Benjamin Howard, John J. White, John Branham, Francis Rogan, R. A. Thompkins, James Guin, John W. Henry, Harry Smith, James A. Blackmore, Joseph Harlan, David Chinault, John Patterson, Henry Sarver, H. B. Vaughn, Y. A. Douglass, John W. Head, of the county of Sumner; and Dr. Sam'l Sullivan, C. J. Bratton, Dr. Farling King Kirly, John C. Marshall, Jesse G. Bledsoe, D. O. Pursley, William Robinson, W. Y. Adams, H. L. Pursley, Anderson Bratton, P. A. Wilkerson, William H. Dewitt, L. B. Griffith, of the county of Macon; and John H. Page, William F. Evans, A. A. Harvey, Samuel Carpenter, Walter Thomas, R. J. Foster, James C. Mulligan, and James Staks, of the county of Allen, in Kentucky; and A. Watkins, J. G. Hardy, P. J. Kirley, G. W. Trabue, F. Gorin, A. Tregg, R. Murrell, John T. Rogers, Jas. Page, W. E. Munford, J. P. Bates, and W. J. Wood, Jr., of the

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county of Barren, in Kentucky; and C. Nourse, Jas. Brown, D. S. Howell, C. P. Mattingly, J. M. Doom, E. B. Smith, G. W. Hite, James M. Brown, S. Johnson, John H. Talbor, of the county of Nelson, in Kentucky; and S. W. Stone, J. H. Rodman, John Duncan, W. P. Read, W. L. Morris, W. Howell, and J. P. Hamilton, of the county of Larnie, in Kentucky, be and they are hereby appointed commissioners, under the direction of whom, or any of whom, subscriptions may be received to the capital stock of the Nashville and Cincinnati railroad company; and they may cause books to be opened at such times and places as they may direct, for the purpose of receiving stock, subscribed to the capital stock of said company; and after they shall open said books, they shall continue them opened, until they shall receive the amount of the capital stock, or as they may deem expedient; and if any of said commissioners shall die, resign, remove, or refuse to act, another may be appointed in his stead by the remaining commissioners, or a majority of them, of the county for which the said commissioner, so not acting, was appointed a commissioner.

Opening of books.

Vacancy—how filled.

§ 3. *Be it enacted*, That the capital stock of said Nashville and Cincinnati railroad company shall be three millions of dollars, in shares of twenty-five dollars each, which may be subscribed for by any individual, county, or corporation; and so soon as four thousand shares of said capital stock shall be subscribed, the subscribers of said stock, their successors and assigns, shall be and they are hereby declared to be incorporated into a company, by the name of the Nashville and Cincinnati railroad company, possessing the powers, rights, and privileges, specified in the first section of this act.

Capital stock.

Organization.

§ 4. *Be it enacted*, That the stock subscribed shall be paid in such installments, and at such times, as may be required by the board of directors of said company: *Provided*, that no payment shall be demanded until at least thirty days' public notice of such demand shall have been given by said board of directors, by a publication in one or more of the newspapers published within the state of Tennessee; nor shall more than twenty-five per centum of each share of stock be called for in any one year; but if the exigencies of the company should require the payments of stocks to be made more rapidly than is provided for herein, or should the board of directors, or a majority of the whole number elected, consider it expedient, it shall be lawful for them to borrow, on the credit of said company, a sum of money not exceeding six hundred thousand dollars; and if any subscriber shall fail or neglect to pay any installment, or any part thereof, demanded according to the provisions of this section, the same may be recovered by action, in the name of said corporation against such defaulting subscriber, before any tribunal having jurisdiction of such cases;

How stock may be paid.

Company may borrow money.

Delinquent stock.

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Subscriptions
in work.

and in all such actions, publication as directed in this section, shall be the only demand necessary to be proved; or in case such failure or neglect to pay any installment, or part of said subscription, demanded according to the provisions of this act, shall continue for the space of sixty days next after the time the same may be due and payable, the board of directors may, in their discretion, order that the same shall be forfeited to the company, and they may also sell it for the benefit of the company, if they think proper; but the said board of directors, by a majority of the whole board, may remit any such forfeiture, on such terms as they think proper: *And, provided further*, that it shall be lawful to receive subscriptions to the capital stock of this company, payable in contracts well secured, to build such parts of the road, or to perform such work in the construction thereof, as may be accepted by the company.

General meeting

§ 5. *Be it enacted*, That so soon as four thousand shares of the capital stock shall have been subscribed, the said commissioners, or a majority of them, shall call a general meeting of the subscribers, at such time and place as they may appoint, and shall give at least twenty days' public notice thereof, in some one or more of the newspapers published in Tennessee; and at such meeting, the commissioners shall lay the books before the subscribers or a majority of them; those present shall have the power to elect, from among the stockholders, seven directors, by ballot, to manage the affairs of the company; and these seven directors, or a majority of them, shall have the power to elect a president of said company, either from among the directors or any other subscriber or stockholder, and of allowing such compensation for his services as they may think proper; and in such elections, and on all other occasions where a vote of the stockholders of said company is to be taken, each stockholder shall be allowed one vote for every share of stock owned by it, him, or her; and every stockholder may, in writing, depute any other person to vote and act as its, his, or her proxy; and the said commissioners, or any three of them, shall be the judges of said first election of directors.

Election of
directors and
president.

Vote by proxy.

Directors elect-
ed annually.

§ 6. *Be it enacted*, That, to continue the succession of the president and directors of said company, seven directors shall be chosen annually on the first Monday in June, every year, by the stockholders of said company, at such place as the president and directors may designate: *Provided*, that after the first election, the said president and directors may change the time and place of holding all subsequent elections, upon publishing such change not less than thirty days prior to the election, in the papers aforesaid; and the directors, or a majority of them, shall have the power to appoint judges of all elections, and to elect a president of said company, either from the directors or any

stockholder, and allow him such compensation for his services as they may deem proper; and if any vacancy shall occur, by death, resignation, or refusal to act, of any president or director, before the year for which he may be elected has expired, a person to fill such vacancy for the year shall be appointed by the president and directors of said company, or a majority of them; and that the president and directors of the company shall hold and exercise their offices until a new election of president and directors, and until they are qualified as such; and that all elections which are by this act, or by the by-laws of said company, to be made at a particular time, if not made at such time, may be made any time thereafter, upon public notice being given.

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Vacancies—
how filled.

§ 7. *Be it enacted*, That a general meeting of the stockholders of said company may be called, at any time during the interval between the annual meetings, by the president and directors, or a majority of them, or by the stockholders owning at least one-fourth of the whole stock subscribed, upon giving thirty days' notice of the time and place of holding the same, in said newspapers; and when any such meetings are called by the stockholders, such notice shall specify the object of the call; and if, at any of such called meetings, a majority, in value, of the stockholders are not present, in person or by proxy, the same shall be adjourned, from day to day, without transacting any business, for any time not exceeding five days; and if within said five days, stockholders having a majority, in value, of the stock subscribed, do not attend, such meeting shall be dissolved.

General meeting

§ 8. *Be it enacted*, That at the regular annual meeting of the stockholders of said company, it shall be the duty of the president and directors, in office for the preceding year, to exhibit a clear and distinct account of the affairs of the company; that, at any called meeting of the stockholders, a majority, in value, of the holders of the stock subscribed being present, may demand and require similar statements from the president and directors, whose duty it shall be to furnish them, when thus required; and that, at all general meetings of the stockholders in said company, a majority of them, in value, may remove from office the president or any of the directors, and fill up the vacancies thus made, in the same manner that they could do at their stated annual meetings.

Statement of
affairs.

President and
directors may be
removed.

§ 9. *Be it enacted*, That the president and directors of said company, before he or they act as such, shall swear or affirm, as the case may be, that they will well and truly discharge the duties of their respective offices to the best of their skill and judgment; and said president and directors, or a majority of them, or a majority, in value, of the stockholders in said company, at any of the stated or call-

To take oath.

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Treasurer.

ad meetings, shall have the power to elect or appoint a treasurer of said company, and to require and take of him such bond, and such penalty, and with such securities as they may prescribe, payable to said company, and conditioned for the faithful keeping and disbursing of all such moneys as may come to his hands, and with such other conditions as may be prescribed; upon which bond recovery may be had, for a breach of the conditions thereof, by suit, in the name of said company, in any court having jurisdiction thereof.

Stock books
may be re-open-
ed.

§ 10. *Be it enacted*, That if any of the stock created by this act shall remain unsubscribed until after the election of the president and directors, the said president and directors, or a majority of them, shall have power to open books and receive subscriptions to any of the capital stock which may remain untaken or unsubscribed for, or to sell or dispose of such untaken stock, for the benefit of the company, not under its par value; and the subscribers or purchasers of said stock have all the rights of original subscribers; and subject to the same regulations.

Directors may
appoint all other
officers, &c.

§ 11. *Be it enacted*, That the president and directors, or a majority of them, may appoint all such officers, agents, or servants, as they may deem expedient for the business of the company, and remove any of them at pleasure; that they, or a majority of them, may determine, by contract, the pay of such officers, agents, and servants, and regulate, by by-laws, the manner of adjusting all accounts against the company; that they shall have power to erect warehouses, workshops, depots, and all other buildings necessary for the transaction of the business of the company; that they shall have the power to direct and regulate in what manner, and by what evidence stock in said company may be transferred; and to pass all by-laws which they may deem necessary or proper for exercising the powers hereby vested in said company, and for carrying into effect this act; *Provided*, the same shall not be contrary to the laws of the United States, or of this state.

Erect depots,
&c., and pass
by-laws.

Capital stock
may be increas-
ed.

§ 12. *Be it enacted*, That the capital stock of said company may be increased or diminished by the president and directors, or a majority of them, as the exigencies or interest of said company may demand.

Powers granted.

§ 13. *Be it enacted*, That the president and directors of said company are hereby vested with all powers and rights necessary to the construction of a railroad from the city of Nashville, or south Nashville, to the Kentucky line, in the direction of Danville, by the town of Gallatin, Sumner county, or by the said town of Gallatin, to connect with Lexington or Harrodsburg, or unite with any railway within the state of Kentucky, the route to be by them selected and determined on, not exceeding sixty-six feet wide, with as many sets of tracks as they may deem necessary; and that

they may cause contracts to be made with others for making said road, or any parts of it; and that they, their agents, engineers, or those with whom they may contract for surveying, or making of said road, or any part thereof, may enter upon, use, and excavate any land which may be wanted for the site of said road, or the erection of warehouses, or other structures, or works necessary to said road and its use, or for any other purpose necessary or useful in the construction or repair of said road, or its works or appurtenances; and they may build bridges and construct tunnels: *Provided*, the same do not obstruct the navigation on navigable streams; may fix scales and weights, lay rails, take and use any earth, timber, gravel, stone, or other material which may be useful or necessary for the proper construction, completion, or repair of said road.

§ 14. *Be it enacted*, When any lands or right of way may be acquired by the said company, for the purpose of constructing their said road, and for want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by the circuit or county court of the county where some part of the land or right of way is situated; and the said commissioners, before they act, shall severally take an oath before some justice of the peace faithfully and impartially to discharge the duty assigned them; in making the said valuation, the commissioners shall take into consideration the loss or damage which may occur to the owner or owners, in consequence of the land being taken, or the right of way surrendered, and, also, the benefit and advantage he, she, or they may receive from the erection or establishment of the railroad or works, and shall state particularly the nature and amount of each; and the excess of loss and damage over and above the benefit and advantage, shall form the measure of valuation of the said land or right of way. The proceedings of the said commissioners, accompanied with a full description of the said land or right of way, shall be returned under the hands and seals of a majority of the commissioners, to the circuit court of said county, there to remain of record. In case either party to the proceedings shall appeal from the valuation to the next session of the circuit court of the county where said land is situated, and give reasonable notice to the opposite party of such appeal, the court shall order a new valuation to be made, by a jury who shall be charged therewith, in the same term, or as soon as practicable, and their verdict shall be final and conclusive between the parties, unless a new trial shall be granted; subject, however, to an appeal as in other cases; and the lands or right of way, so valued by the commissioners, or jury, shall vest in said company, in fee simple,

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Entering upon
lands, &c.Not to obstruct
navigation.

Right of way.

1862.

Appeal may
be taken.

so soon as the valuation may be paid, or when refused, if tendered. Where there may be an appeal, as aforesaid, from the valuation of the commissioners, by either of the parties, the same shall not prevent the works intended to be constructed from proceeding; but when the appeal is by the company, requiring the surrender, they shall proceed, or be at liberty to proceed in their works, on condition of giving the opposite party a bond, with good security, to be approved by the clerk of the circuit court of the county where the valuation is returned, in a penalty equal to double the said valuation, conditioned for the payment of said valuation and interest, in case the same be sustained; and in case the same be reversed, for the payment of the valuation thereafter to be made by the jury, and confirmed by the court: *Provided*, that when the land cannot be had by gift or purchase, the operations of the work are not to be hindered or delayed, during the pendency of any proceeding to assess its value, as aforesaid, nor shall any injunction or supersedeas be awarded by any judge or court to delay the progress of said work.

Presumption
when no con-
tract.

§ 15. *Be it enacted*, That in the absence of any contract with the said company, in relation to lands through which said road may pass, signed by the owner thereof, or by his agent, or any claimant, or person in possession thereof, which may be confirmed by the owner, it shall be presumed that the land upon which the said road may be constructed, together with a space of one hundred feet on each side of the centre of said road, has been granted to the company, by the owner thereof; and the said company shall have good right and title thereto, and shall have, hold, and enjoy the same as long as the same be used only for the purposes of the road, and no longer, unless the person or persons owning the said land, at the time that part of the road which may be on said land was finished, or those claiming under him, her, or them, shall apply for an assessment for the value of the said lands, as herein before directed, within five years next after that part of said road was finished; and in case the said owner or owners, or those claiming under him, her, or them, shall not apply for such assessment within five years next after the said part was finished, he, she, or they shall be forever barred from recovering the said land, or having any assessment or compensation therefor: *Provided*, that nothing herein contained shall affect the right of *femes covert*, or infants, or *non compos mentis*, until two years after the removal of their respective disabilities.

Assessment of
damages.

Saving to in-
fants, &c.

Release of right
of way.

§ 16. *Be it enacted*, That the president and directors, or their authorized agents, may receive releases from the owners of lands, of the right of way, which may be acknowledged or proved as other deeds, and registered, and may agree with the owner of any land, earth, timber, stone,

or other material for the construction or repair of said road, or any of their works, for the purchase, or use, or occupation of the same.

§ 17. *Be it enacted*, That said company shall have authority and power to construct their road in such manner as to unite with or diverge from any railroad, either in the state of Tennessee or Kentucky; and the companies, from time to time, may agree upon the terms, just and proper, for the thorough transportation of freight and travel; and said company shall have the same power and authority to construct a branch of said road, or branches, as said company may desire, that the charter gives them to construct the main line, and with the same rights and privileges, and with the same duties and restrictions,

§ 18. *Be it enacted*, That after the company shall be organized, by the election of directors and the choice of the president and other officers, they may cause one or more of the main routes of said road to be surveyed and estimated, preparatory to location and letting of the work; but, before proceeding to let the work, in whole or in part, the president and directors shall call a meeting of the stockholders, and lay before them the costs of the road, as far as estimated, with the amount of subscriptions obtained, and the right of way obtained, and the expenses incurred, and shall then proceed to let the work, and make the necessary contracts for the construction of the road.

§ 19. *Be it enacted*, That whenever, in the construction of said road or roads, it shall be necessary to intersect any other established road or way, it shall be the duty of the president and directors so to construct said road across such road or way, as not to impede the passage of persons or property along the same; or, when it shall be necessary to pass through the land of any person, it shall also be their duty to provide for such person proper wagon ways across said railroad, from one part of the land to the other; and if said company shall fail to provide proper wagon ways across said road, as herein provided, it shall be lawful for any person to sue said company, and be entitled to such damages as a jury may think him or her entitled to for such neglect.

§ 20. *Be it enacted*, That whenever it shall be necessary for said company to have, use, or occupy any land, materials, or other property, in order to the construction or repair of any part of said road or roads, or their works, or necessary buildings, the president and directors of said company, or their agents, or those contracting with them for working or repairing the same, may immediately take and use the same, they having first caused the property wanted to be viewed by commissioners formed in the manner hereinbefore prescribed; and it shall not be necessary, after such view and valuation, in order to the use and oc-

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May unite with any other road.

May construct branch roads.

Preliminary surveys.

Estimates to be submitted to stockholders.

Crossways.

Materials.

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cupation of the same, to wait the issue of the proceedings upon such view, and the finding of the jury, and action of the court thereon; the payment or tender of such valuation shall be a bar to all actions for taking and using such property, whether begun before or after such confirmation, or the payment of said valuation.

Locomotives,
cars, &c.

Rates of trans-
portation, tolls,
&c.

§ 21. *Be it enacted*, That the president and directors shall have power to purchase, with the funds of said company, and place on any railroads constructed by them under this act, all machines, wagons, vehicles, or carriages of any kind, which they may deem proper, for the purposes of transportation on said road; and they shall have the power to charge for tolls, and the transportation of persons, merchandise, and property of any kind whatever, transported along said railway, any sum not exceeding the following rates: for transportation or conveyance, not exceeding thirty-five cents per hundred pounds on heavy articles, and ten cents per cubic foot on articles of measurement, for every hundred miles, and five cents a mile for every passenger. It shall not be lawful for any other company, or any other person or persons, to travel upon or use any of the roads of said company, or transport persons or property thereon, without the license and permission of the president and directors thereof.

Penalties for
injuring or ob-
structing road.

§ 22. *Be it enacted*, If any person shall willfully and maliciously destroy, or in any manner hurt, damage, or obstruct the said railroad, or any bridge, or any vehicle used for or in the transportation thereon, such person or persons, so offending, shall be liable to be indicted therefor, and, on conviction, shall be imprisoned not more than six nor less than one month, and pay a fine not less than twenty dollars, and shall be further liable to pay all expenses of repairing the same; and it shall not be competent for any person, so offending against the provisions of this clause, to defend himself by pleading or giving in evidence that he was the owner or agent, or servant of the owner of the land, where such destruction, hurt, damage, injury, or obstruction was done or caused, at the time the same was caused or done.

Obstructions a
nuisance.

§ 23. *Be it enacted*, That every obstruction to the safe and free passage of vehicles on the said road, shall be deemed a public nuisance, and may be abated as such by an officer, agent, or servant of the company; and the person causing such obstruction may be indicted and punished for erecting a public nuisance.

Punishment for
intrusion on the
road.

§ 24. *Be it enacted*, That if any person shall willfully intrude upon the said railroad, or any part thereof, by any manner of use thereof, or of the rights and privileges connected therewith, without permission; or contrary to the will of said company, he, she, or they shall forthwith forfeit to the said company all the vehicles that may be so in-

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truded on the said railroad, and the same may be recovered by suit at law; and the person or persons, so intruding, may be also indicted for a misdemeanor, and, upon conviction, fined and imprisoned, by any court of competent jurisdiction.

§ 25. *Be it enacted*, That the said company shall have the right to take, at the store houses they may establish or annex to their railroad, all goods, wares, merchandise, and produce, intended for transportation; prescribe the rules of priority, and charge and receive such just and reasonable compensation for storage as they may, by rates, establish, or as may be fixed by agreement with the owner, which may be distinct from the rates of transportation: *Provided*, that the said company shall not charge or receive storage on goods, wares, merchandise, or produce which may be delivered to them at their regular depositories, for immediate transportation, and which the company may have the power of transporting immediately.

Transportation of goods.

Storage.

§ 26. *Be it enacted*, That the profits of the company, or so much thereof as the board of directors may deem advisable, shall, when the affairs of the company will permit, be semi-annually divided among the stockholders, in proportion to the stock each may hold.

Dividends.

§ 27. *Be it enacted*, That the said company shall possess such additional powers as may be convenient for the due and successful execution of the powers granted in this charter, and for the successful construction and management of the work.

Powers granted.

§ 28. *Be it enacted*, That the president, directors, clerks, agents, officers, and servants of said company shall be exempt from military duty, except in cases of invasion or insurrection; and shall also be exempt from serving on juries, and working on public roads.

Company's servants exempt from military duty.

§ 29. *Be it enacted*, That the company shall have full power and authority to purchase and own such number of slaves as may be necessary for the construction of said road, and for the keeping the same in repair.

May purchase and own slaves.

§ 30. *Be it enacted*, That the capital stock of said company shall be forever exempt from taxation, and the road, with all its fixtures and appurtenances, including workshops, warehouses, and vehicles of transportation, shall be exempt from taxation for the period of twenty years from the completion of the road, and no longer.

Capital exempt from taxes; property may be taxed after 20 years.

§ 31. *Be it enacted*, That so soon as five miles of the road shall have been completed by the company, they may commence and prosecute business upon the terms, and upon the stipulations herein provided, as though the whole work was completed.

When may begin business.

§ 32. *Be it enacted*, That the said company shall have the power, in contracting for the construction of said road, or any part thereof, to pay one-third of the contract price

Payment for work.

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Bonds.

in the bonds of the company, bearing not more than six per cent. per annum interest, payable half yearly, interest and principal payable in some of the eastern cities, or elsewhere, and to secure the same by deed of trust upon said road, as may be agreed on; and the said company shall have the authority and power to issue the bonds of said company to an amount not exceeding six hundred thousand dollars, in sums not exceeding one thousand dollars, and bearing an interest not exceeding six per cent. per annum, payable half yearly, in some of the eastern cities, or elsewhere; and to sell said bonds and to apply the proceeds to the completion of said road, or any of its branches; the said company having full power to secure the payment of said bonds by the execution of a deed of trust upon the railroad and its property, and, from time to time, apply the dividends or profits to their payment.

Counties and towns may subscribe stock

§ 33. *Be it enacted*, That it shall be lawful for the county courts of Davidson, Sumner, and Macon counties, and the incorporated towns of Gallatin and Lafayette, and the city of Nashville, and it is hereby made the duty of said courts and incorporations to subscribe for stock in the Nashville and Cincinnati railroad company, as is hereinafter provided for.

How subscribe.

§ 34. *Be it enacted*, That before any county court, or incorporated city or town shall be permitted to subscribe stock in the name of the county, city, or town, it is hereby made the duty of said court, mayor and aldermen of said incorporations, to call for the approbation of the legal voters of the county or incorporation, by advertising an election, to be held by the sheriff of the county, and by the town or city constable, (as the case may be,) giving at least thirty days' notice of the same, such notice to be posted up at the election precinct in the county, or place of voting in the wards of the incorporation, (as the case may be;) which notice shall always state the amount of stock which the court, city, or town may propose to take or subscribe for, when payable; and if a majority of the votes polled be "for subscription," then, and in that case, the chairman of the county court, the mayor of the incorporation, (as the case may be,) shall carry into effect the will of the majority, and shall subscribe the amount of the stock proposed and voted for, as aforesaid; but if a majority of the votes polled be "no subscription," then the question as to the propriety of subscribing stock, as before provided for, shall not again be propounded, until after the expiration of six months, and not then, without the concurrence of one-third of the justices of the county, or mayor and aldermen, as the case may be.

Vote thereon.

§ 35. *Be it further enacted*, That the county or counties, city or towns, that may avail itself or themselves of the provisions of this act, shall, through the county courts, or

mayor and aldermen, (as the case may be,) elect upon what portion of said road the moneys herein provided to be raised, shall be expended, which shall always be within the county by which such stock is taken, or as near thereto as may be practicable.

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They may elect on what part of road money to be expended.

§ 36. *Be it further enacted*, That in all cases where the stock contemplated in the provisions of this act is taken, as provided for, it shall be the duty of the county courts, and mayor and aldermen, respectively, to levy a tax upon the taxable property and privileges within the county or incorporation voting by a majority to subscribe for said stock; which tax shall be levied and paid upon the principle of levying the state, county, and corporation tax, as the case may be; and said tax shall be called the "railroad tax," to be kept distinct from the other taxes; the county or corporation, collecting of taxes, as the case may be, in the event they shall not elect a railroad collector, shall collect said "railroad tax" according to the tax list, to be furnished them by the county court, or mayor and aldermen, as aforesaid; which list of taxable property and privileges shall be made out in conformity to the last previous valuation thereof, and in conformity to the last taxation of the taxable privileges: *Provided, however*, the tax to be collected in any one year shall not exceed two per cent. of the aggregate value of the taxable property of the county, city, or town; and the like proportion shall be observed upon the taxable privileges, as aforesaid.

Tax to meet subscription.

§ 37. *Be it further enacted*, That the county courts, and mayor and aldermen, as aforesaid, shall require the collector of the "railroad tax" to give bond and security, in such amount as they may require, of said tax, payable to the state of Tennessee, previous to his entering upon the duties of his office, conditioned that he will discharge his duty, and faithfully account for and pay over said taxes to the president and directors of said railroad company, and he and his securities shall be liable in like manner as, by law, revenue collectors are made liable.

Collector of tax to give bond.

§ 38. *Be it enacted*, That as the collector shall collect said taxes, he shall pay the same over to the president and directors of said company, who shall apply said tax as received to the payment of so much stock subscribed as aforesaid; and each and every person who pays any part of said tax, shall be reported by said collector to said company, and shall be entitled to his, her, or their *pro rata* share of stock in said company, and shall be entitled to demand and receive a certificate of stock for the amount of said tax paid to said railroad company, by each, respectively, and shall be a stockholder in said company to the extent of the tax paid, as aforesaid; which certificate of stock may be assigned or transferred, and shall entitle the holder thereof to become a stockholder to the amount of the

To pay over.

Tax paid certificate.

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certificates of stock he may hold; and it shall be the duty of the company to take in and cancel minor certificates of stock, when produced, and deliver to the holder a certificate of stock embracing all that may be delivered up, from time to time; *Provided*, the same shall amount to one share or more; and such certificate of stock shall entitle the holder thereof to the like rights and privileges as other stockholders in said company.

May elect railroad collector.

§ 39. *Be it enacted*, That the county courts, or mayor and aldermen, as aforesaid, shall have the power to elect a railroad collector, if they think proper, who shall give bond, collect said tax, and discharge the duties of collector as prescribed in the previous provisions of this act, and, in like manner, be made liable for a failure to discharge his duty.

When elections to be held.

§ 40. *Be it enacted*, That it shall be the duty of said county courts, and the mayor and aldermen of said corporations to order said elections for stock, as aforesaid, upon application, in writing, of a majority of the commissioners appointed for the counties respectively: *Provided, however*, if said company shall be formed and organized by the election of a president and directors of said company, then the application shall be made, in writing, by the board; and said elections shall be conducted and held in such manner as said county courts and mayor and aldermen shall direct.

County court may issue its warrants.

§ 41. *Be it further enacted*, That for the purpose of meeting any unexpected demand on the part of the board of directors of the company, in the construction of said railroad, to be expended, as aforesaid, at a time when the county or corporation may have no "railroad tax" on hand, the county courts and mayor and aldermen aforesaid, may anticipate the collection of the taxes voted and subscribed, as aforesaid, by the issue of county and corporation warrants, payable as directed by said board of directors, bearing an interest of six per centum per annum, which warrants may be received by the board of directors in payment of so much of the stock subscribed.

STATE OF TENNESSEE, CITY OF NASHVILLE.

I, the Clerk of the House of Representatives, certify that the foregoing act has passed both Houses of the General Assembly of Tennessee, and has become a law—the Speakers of the two Houses having signed the same.
This December 5th, 1851. JNO. H. SENTER.

Appropriation of land in Kentucky.

§ 2. The said company, hereby incorporated, shall not take or appropriate any land within the state of Kentucky, for any purpose whatever, without the consent of the owner, or without having previously paid therefor a just compensation; and to ascertain the amount to be paid for land deemed necessary for said corporation, under said act of incorporation, the company shall have the right to apply

for a writ of *ad quod damnum* to assess the value thereof, and any damages, under the general law for condemning land for roads in the state of Kentucky.

§ 3. The said company shall have the right of submitting to the popular vote of each county in Kentucky, through or into which the road or its branches, contemplated by this act, shall run, the question of subscribing stock in said company to an amount not exceeding, in any one county, the sum of two hundred thousand dollars, with all the privileges and rights, and under the same limitations and conditions contained in an act, entitled, an act to authorize the county of Fayette and city of Lexington to subscribe stock in railroad companies, approved January 25, 1851: *Provided*, that either or all of said counties may pay the subscriptions made by them by direct tax on the real and personal property of said county or counties, or by bonds, as provided in said act, or partly in bonds and partly in money, at the discretion of the county courts. And in case it shall be decided to pay the whole, or any part of said subscriptions by direct tax, the same proceedings shall be taken in reference to its collection as are provided in said act for the collection of the tax, for the payment of interest on the bonds. Payments by direct tax shall be made in not more than four annual installments: *Provided further*, that no power is granted by this act to any county court within this state to levy a tax upon any county, or to subscribe stock in any railroad company, until after a vote is taken at a regular August election, in such county, upon the question of levying such tax, and a majority of all the qualified voters in the county shall vote in favor of such tax; the number of such qualified voters in the county to be ascertained by the commissioner's book for that year. But if the stock of said Nashville and Cincinnati company be not subscribed within ten years, this charter shall be void.

§ 4. The general assembly of the commonwealth of Kentucky reserves to itself the right to tax the property of said company, within the limits of Kentucky, in the same manner and to the same extent that the property of other railroad companies in this state are taxed.

§ 5. The tariff of charges by said company, for the transportation of passengers and freight, shall be equal on all parts of said road, in proportion to distance, and equal facilities therefor in either direction shall be furnished.

1859.

Condemnation
of land.

Vote on sub-
scribing.

Subscriptions
may be paid in
bonds or by tax.

Vote to be ta-
ken at a regular
election; major-
ity required.

When charter
to be void.

Reserved right
to tax.

Rates of toll
to be equal.

1852.

Right to make
other roads.May unite with
Lexington and
Danville road.May branch
from Glasgow.

§ 6. Nothing in this act shall be construed so as to prohibit the general assembly of Kentucky from passing any law authorizing the construction of railroads, within this state, parallel to, crossing, or to unite with said road, and the power to do so is hereby expressly reserved, and the power to unite with any railroad within this state shall be so construed as to authorize said company to unite with the Lexington and Danville railroad, at Lexington, or at some other point; and the power to construct a branch or branches of said road, within this state, shall only authorize said company to construct a branch from Glasgow, in Kentucky, to intersect with the Nashville and Chattanooga railroad at some point on said road, which power is hereby given said company, with the same privileges and restrictions that they have to construct the main stem from Nashville.

Capital stock.

§ 7. The general assembly of the commonwealth of Kentucky hereby reserves the right to restrict and limit the amount of capital stock in said company hereafter.

Conditions of
this act.

§ 8. This act shall not take effect unless the legislature of Tennessee shall, upon application by the Louisville and Nashville railroad company, at the present, or before the end of the next session of said legislature, grant to said company the right of way through Tennessee to such point as they may select for their depot on the north side of the Cumberland river, opposite Nashville, or on the south side of said river, within one mile and a half of the depot of the Nashville and Chattanooga railroad.

Approved January 7, 1852.

CHAPTER 360.

AN ACT to incorporate the Baptist Church of Lancaster, Garrard county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Edmund Byers, Garret Burnside, Benjamin Wilmot, Huston Jackson, and Seymour Hopper, and their successors in office, be and they are hereby created a body politic and corporate, by the name and style of the trustees of the Baptist church, in the town of Lancaster, of Garrard county; and, by that name, to have perpetual succession, with all power to sue and be sued, of pleading and being impleaded, so far as may be necessary to protect the rights, titles, property, privileges, possessions, and immunities of said church, which now or may hereafter belong to the same. That whenever vacancies may occur

in the office of the trustees, it shall be lawful for them to be filled pursuant to the discipline and rules of said church. The right is hereby reserved to the legislature to alter, amend, or repeal this act.

1852.

Approved January 7, 1852.

CHAPTER 361.

AN ACT to legalize surveys in Knox and Clay counties.

WHEREAS, many surveys of land have been made upon land warrants issued by the Knox and Clay county courts, along the line between said counties, when the correct location of said line was unknown, and some of said surveys may be in the county different from the one from which the warrant issued, agreeably to the running of the county line, as established by an act of the legislature passed at this session. Wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all surveys made as set forth in the preamble of this act, are hereby declared to be legal, and that the patent issued upon any such survey shall vest in the patentee all claim which the commonwealth had in any land thus surveyed.

Approved January 7, 1852.

CHAPTER 363.

AN ACT requiring the Mercer Circuit Court to index and cross index certain record books.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the clerk of the Mercer circuit court to index and cross index the orders contained in the order books of said court; and it shall be the duty of the county court of Mercer county, at its court of claims, to make a just and reasonable compensation to said clerk for said services, to be paid out of the county levy of said county.

Approved January 7, 1852.

CHAPTER 364.

AN ACT calling a convention in the city of Newport.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a convention for the purpose of re-adopting, amending, or changing the laws relating to the city of Newport, be held, commencing on the first Monday in October, 1852, and to continue from day to day until the business thereof shall be completed, with power to

Convention powers granted.

1852.

adjourn and re-assemble at such times as it may deem proper, at the council chamber in said city; and said convention shall consist of as many members as compose the common council of said city, and no more, and be apportioned among the several wards in the same manner and proportion that councilmen are now appointed.

Duties of officers.

§ 2. That it shall be lawful for the city officers of said city, at the next election to be held for councilmen after the passage of this act, to open a poll, at their several places of voting, for delegates to said convention, and all citizens having a right to vote for delegates; and that the election for delegates shall be conducted in the same manner, and the certificate of election of said delegates the same as for city councilmen.

Powers and duties of mayor.

§ 3. That when said convention shall have completed their labors, the laws they re-adopted, amended, or changed, as above provided for, shall be submitted to the people of said city for their adoption or rejection; and the mayor of said city shall have power to order a special election to be held in each ward in said city, first giving thirty days notice of said election in some newspaper printed in said city, at which election a poll shall be opened, and the qualified voters of said city may vote for or against the adoption of said code of laws; and should it be found that a majority of the votes polled are in favor of the adoption of said code, then the same shall be submitted to the next general assembly for enactment.

Powers of the city council.

§ 4. That the city council of said city shall have power to allow the members of said convention such compensation as they may deem just, to be paid out of the city treasury.

Approved January 7, 1852.

CHAPTER 365.

AN ACT to amend an act incorporating certain turnpike roads in the county of Garrard.

Style of corporation.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the persons who shall subscribe for stock in a turnpike road from a point on the Lancaster and Richmond turnpike road to the county line, at Copper creek, in the direction to Mount Vernon, be a body corporate, under the style of the Paint Lick and Mount Vernon turnpike road company, with a capital stock of fifteen thousand dollars; and E. D. Kennedy, ——— Scroggins, H. T. Terrill, David G. Ross, and William Baird are appointed commissioners for obtaining subscriptions of stock in said company, under the same rules and regulations provided in regard to other roads in Garrard county, in the act to which this is an amendment.

Capital stock.

§ 2. That at the election to be held as provided for in the act to which this is an amendment, the qualified voters of Garrard county shall vote upon the following propositions for subscription of stock in said roads, instead of the sums provided for by said act; to-wit: on the Lancaster and Danville turnpike road, five thousand dollars; on the Lancaster and Richmond turnpike road, twelve thousand dollars; on the Lancaster and Kentucky river turnpike road, fifteen thousand dollars; on the Bryantsville and Harrodsburg turnpike road, three thousand dollars; on the Paint Lick and Mount Vernon turnpike road, five thousand dollars; on the Lancaster and Crab Orchard turnpike road, seven thousand dollars; in addition to sums heretofore subscribed.

1852.
Vote on subscription.

§ 3. That at a time to be fixed by the sheriff of Garrard county, and notice given as provided in the act to which this is an amendment, an election shall be held, and the question submitted to the qualified voters of Garrard county whether they will authorize the county court to subscribe twenty-five thousand dollars in the Lexington and Danville railroad company, provided said road runs through the county of Garrard.

Sheriff to fix time of election.

§ 4. That should a majority of the qualified voters of Garrard county refuse to authorize the subscriptions in the several turnpike roads herein before mentioned, a less sum on each of said roads may be fixed by the judge of the Garrard county court, on each of said roads, and a new election ordered, and the vote taken thereon as provided by the act to which this is an amendment.

Failure of subscription; what to be done.

§ 5. That the money subscribed by the county court of Garrard, and collected, shall be expended in Garrard county.

Approved January 7, 1852.

CHAPTER 366.

AN ACT to allow a Police Judge and town Marshal to the town of Cornishville, in Mercer county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the act establishing the town of Cornishville, in Mercer county, be and the same is hereby so amended as to authorize the citizens of said town to elect a police judge and town marshal, at the same time and place, and in the same manner as the trustees of said town are elected; the result of said election shall, within sixty days, be certified by the clerk of said election, so far as the said police judge is concerned, to the governor of the state, whose duty it shall be to issue a commission for the person elected to said office by the highest number of the duly qualified voters of said town; and said police judge

Election of judge, &c.

To be certified to governor.

1852.

Powers of
police judge

shall be a judicial officer, to be styled the police judge of Cornishville, and shall have jurisdiction, within the limits of said town, in all cases, civil and criminal, in which justices of the peace have jurisdiction, except in criminal cases as a court of inquiry, in which he shall have jurisdiction now given by law to two justices of the peace, with power in that particular to the extent of the county of Mercer, and shall proceed in like manner as two justices are required to proceed in criminal cases. Said police judge shall, before he enters upon the discharge of his duties, take an oath before some justice of the peace for Mercer county, to discharge the duties of his office faithfully and impartially, to the best of his ability, without favor or affection, together with such other oaths as is required of other public officers by the laws and constitution. The said police judge shall have jurisdiction of all offenses arising under the by-laws of said town, and shall have power to enter judgment and award execution accordingly; and shall have, in all other respects, the same powers and jurisdiction, and be subject to the same duties and requirements contained in sections nine, ten, and eleven, of an act to incorporate the town of Elizabethtown, approved February 2, 1850.

Police judge to
qualify.Extent of his
jurisdiction.

Duty of marshal

§ 2. It shall be the duty of the town marshal to attend the sittings of the courts to be held by the police judge, to serve all process and precepts to him directed; to collect all executions directed to him from the police judge, and make due return thereof; in doing which he shall go to any part of the county of Mercer to execute process in criminal cases. He shall take the same oath required of the said police judge, to be administered by the police judge of said town, or some justice of the peace for Mercer county; and shall give bond with good and sufficient security, to be approved of by the board of trustees for said town, payable to said trustees, in such penalty as the board shall require, conditioned for a faithful discharge of the duties of the office.

Approved January 7, 1852.

CHAPTER 367.

AN ACT in relation to the Harrodsburg, Cane Run, and Big Spring Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Harrodsburg, Cane run, and Big Spring turnpike road company, instead of making said road with stone set on edge and covered with rock, may construct said road with broken rock, of the depth of nine inches; and of the width of sixteen feet metal the first mile from the town of Harrodsburg, and the residue

of said road they may construct of the width of ten feet metal, and eleven feet summer road, instead of the manner specified in the articles of association.

1852.

§ 2. That the president of said company may be appointed surveyor of said road, by and with the consent of the stockholders, who shall hold said office, with the usual powers, for the time for which he may be appointed; and each stockholder in said road shall be exempt from working on any other road, in the proportion of one hand to every fifty dollars worth of stock subscribed by said stockholders.

Powers, &c.,
of president.

§ 3. That the said company shall have power to erect a toll gate on that portion of said road now constructed and in use, and at as early a day as they may deem proper, and they may charge just and proportional tolls at said gates for the travel on that part of said road now constructed.

Gates.

Approved January 7, 1852.

CHAPTER 363.

AN ACT to authorize the Oakland Plank Road Company to construct a Branch Road.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Oakland plank road company may construct a branch to their present road, by opening or extending in a direct line, eleventh street, from the city limits in the city of Louisville, to a point that will intersect their road; the property holders through whose lands said branch road shall pass, granting the said company the right of way the same width as said eleventh street.

Continuation
of road.

§ 2. When the said branch road shall be completed, the said company may erect a gate and toll house between the said city of Louisville and the Oakland race course, not nearer to the city limits than their present toll gate now is, and may demand the same rate of tolls at said gate as they are now authorized by law to receive at their present toll gate. They may also acquire and hold a lot of ground, (not exceeding two acres,) for the erection of their toll house.

Gate.

§ 3. For the purpose of constructing the said branch road, the said company may expend the income derived from their present road; and when said branch shall be completed, they may add the amount so expended to the capital stock of the company, and divide the same *pro rata* among the stockholders.

§ 4. After the completion of the said branch road, the company shall have the right to lay by a like portion of their income, as a fund for re-laying their road, as is now allowed to plank road companies organized under the general plank road law: *Provided, however*, that they shall not

How road may
be repaired.

LAWS OF KENTUCKY.

1852. increase their rate of tolls beyond what they are now authorized by law to receive.

Approved January 7, 1852.

CHAPTER 369.

AN ACT giving Julius Hacker, Sheriff of Owsley county, further time to return his delinquent list.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the further time until the first day of June, 1852, be allowed Julius Hacker, sheriff of Owsley county, to return his delinquent list.

Approved January 7, 1852.

CHAPTER 373.

AN ACT explanatory of an act, approved March 24, 1851, entitled, an act to charter the city of Louisville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That nothing contained in an act, entitled, an act to charter the city of Louisville, approved March 24, 1851, shall be so construed as to extend the taxing boundary of the city of Louisville beyond the limits fixed by an act approved March 5, 1850, entitled, an act to amend the charter of the city of Louisville: *Provided,* that any lands beyond those limits, and within the boundaries fixed by the act referred to in the title of this act, which may have been or may hereafter be laid off into lots of a half acre or less, and offered for sale, shall, after sale of any part thereof, be subject to taxation by the general council of said city.

Approved January 7, 1852.

CHAPTER 374.

AN ACT to incorporate the town of Calhoun, in Daviess county.

Town to be
laid off, and plat
recorded.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for John Calhoun and others, of the county of Daviess, the owners thereof, to lay off any number of acres of land, not exceeding one hundred acres, of the tract in said county now owned by them, and lying on Green river, opposite the town of Rumsey, into the necessary streets, alleys, and lots of convenient size, as they may judge proper; which town shall be known and called by the name of Calhoun; and a plat of said town, when so laid off, shall be recorded in the office of the clerk of the Daviess county court.

§ 2. That Jno. Calhoun, Thomas Shackelford, F. M. Humphrey, James Landsum, and Rush Kelly be and they are hereby appointed trustees of said town, who shall hold their offices until the first Saturday in April, 1852, and until their successors are elected and qualified. The title to said land, so laid off, except so far as the same may have been already conveyed by said owners, shall be vested in said trustees and their successors; and said trustees shall have power to convey to the purchaser the title to said lots, whenever the receipt of the owner or owners of said land shall be presented to them, specifying that the purchase money thereof has been paid; and they shall have the same powers and authority which trustees of other towns in this commonwealth possess under the general laws regulating towns.

1852.
Trustees; term of office.

Title to land vested in trustees; may convey to purchaser

Powers granted

§ 3. That it shall be lawful for the qualified voters of said town, on the first Saturday in April, 1852, and on the same day every succeeding year, to elect five trustees for the government of said town. They shall have power to pass all by-laws and ordinances which, in their discretion, they may deem necessary for the government of said town; not inconsistent with the laws of this commonwealth.

Election of trustees.

May make by-laws, &c.

§ 4. A police judge shall also be elected by the qualified voters of said town, on the said first Saturday in April, 1852, and every fourth year thereafter; and on the said first Saturday in April, 1852, and on every second year thereafter, a town marshal. Said police judge shall be commissioned by the Governor; he shall have jurisdiction of all cases arising in said town for a violation of any of the ordinances thereof, and shall also have concurrent jurisdiction, and be entitled to the same fees for similar services with justices of the peace, in all cases within said county. The town marshal shall execute bond to the trustees for the faithful discharge of the duties of his office, with the usual conditions contained in a constable's bond, in such penalty as they may prescribe, and he shall be governed by such rules and regulations as may, from time to time, be ordained by said trustees. He shall have the same powers and jurisdiction, in said county, as are conferred by law upon constables, be entitled to the same fees for similar services, and be responsible in like manner.

Election of police judge and marshal.

Jurisdiction of police judge.

Marshal's bond, his powers, jurisdiction, and fees.

§ 5. That before said trustees, police judge, and town marshal shall enter upon the duties of their offices, they shall severally take an oath before some justice of the peace of Daviess county, faithfully to discharge the duties of their several offices, and also the oath required by the constitution.

Town officers to take oath.

§ 6. Vacancies in the office of trustee may be supplied for the remainder of the term by appointment of those remaining; but vacancies in the office of police judge and

Vacancy; how filled.

LAWS OF KENTUCKY.

1852.

marshal shall be filled by an election for the remainder of the term, by the qualified voters of said town, to be held at such time as the trustees may appoint, after at least ten days notice thereof shall have been given by public advertisement at three of the most public places therein.

Approved January 7, 1852.

CHAPTER 375.

AN ACT for the benefit of the Louisville and Covington Railroad Company.

Company may
issue bonds.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Louisville and Covington railroad company be and they are hereby authorized to issue the bonds to any amount not exceeding one million of dollars, which bonds may run for a period not exceeding fifty years, bearing interest at any rate not exceeding seven per centum per annum, and may be made payable at such place as said company may think proper; and said company may sell said bonds at such rate of discount as to them may seem advisable.

Books to be
opened.

Organization.

§ 2. The books for the subscription of the capital stock of said company shall be continued open until the first day of April, 1852; and the said company shall not organize, by the election of their officers, until the sum of three hundred thousand dollars of the capital stock of said company has been subscribed in good faith by good and solvent individuals or corporations.

Subscriptions
may be received
in bonds.

§ 3. That the board of directors of said company may, if they so determine, receive subscriptions to the capital stock of said company, payable in the bonds of the subscribers, having not more than ten years to run, secured by deeds of trust on double the amount in value of unincumbered real estate lying in some one of the counties through which said road may pass, and bearing a rate of interest, payable semi-annually in the cities of Covington or Louisville, of not exceeding eight per cent. per annum, such rate of interest on such bonds being hereby legalized and established, any law to the contrary notwithstanding.

Approved January 7, 1852.

CHAPTER 376.

AN ACT for the benefit of Gallatin county Academy, and Common School District, No. 1, in Carroll county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of the Gallatin county academy, and their successors, be and they are hereby empowered to sell and transfer, or donate and convey any

estate, real, personal, or mixed, which they may have, own, or hold, in the town of Carrollton; and they may receive, purchase, or acquire any other estate in lieu thereof, or at any time thereafter, not exceeding in value the sum of fifty thousand dollars.

1852.

§ 2. That the trustees of common school district, No. 1, (Carrollton district,) in the county of Carroll, and their successors, be and they are hereby authorized and empowered to receive, purchase, and hold, for the use and benefit of the common school of said district, or sell, exchange, donate, and convey any estate, real, personal, or mixed, not exceeding the value of fifty thousand dollars, which they may deem necessary for the promotion of the common school interests of said district.

Approved January 7, 1852

CHAPTER 377.

AN ACT to charter the Hamilton Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company be and is hereby formed and created a body politic and corporate, by the name and style of the Hamilton turnpike road company, for the purpose of constructing an artificial road on the McAdams plan, from the steamboat landing in the town of Hamilton, in Boone county, to intersect the Union turnpike road near Robert Adams', in said county; the said road to be constructed upon the nearest and most practicable route from Hamilton, in said county, by way of Big Bone church, to said intersection.

Corporate name and objects.

§ 2. The capital stock of said company shall be ten thousand dollars, to be divided into shares of twenty-five dollars each.

Capital stock.

§ 3. That a book or books may be opened for the subscription of stock in said company, at Union and Hamilton, under the direction of Thos. P. Johnson, Ben. M. Allen, Thomas Huey, Richard B. Johnson, L. L. Youell, Henry B. Corbin, John C. Riley, Benj. L. Stephens, Joel B. Frazier, John T. Baker, and John Wallace as commissioners, at such times as they shall deem expedient and shall direct, first giving five days notice of the opening of said books; and they may continue the books open as long as they may think proper.

Books to be opened.

Commissioners.

§ 4. The subscribers shall, in the books of said company, enter into the following obligation, to-wit: "We, whose names are hereunto subscribed, do respectively promise to pay the president, directors, and company of the Hamilton turnpike road company, twenty-five dollars for each share of stock set opposite to our names, at such times as we may designate, and pay the same in such proportions and at such times as the said president and directors may re-

Contract.

1852.

quire, after the same becomes due and payable. Witness our hands this the day of " which amounts shall be collected in the proper courts.

Organization.

§ 5. So soon as five thousand dollars is subscribed to the capital stock of said company, it shall be the duty of the commissioners named in the third section of this act, to give notice, in such manner as they may think proper, for a meeting of the stockholders, at such time and place as they may think proper to designate, for the purpose of electing a president and five directors; and one vote shall be allowed for each share of stock; and the president and directors shall continue in office for one year, and until their successors are duly elected. The times and places for all elections, after the first, shall be fixed by the president and directors of said company, for the time being. A majority of the commissioners shall be competent to transact all business.

Election of president and directors.

Corporate name and powers.

§ 6. So soon as said company is organized by the election of officers, the president and directors shall be a body politic and corporate, in fact and in law, under the name and style of the Hamilton turnpike road company, and, by that name and style, shall have perpetual succession, and all the privileges and franchises incident to a corporation; shall be capable of holding their capital stock, and the increase and profits thereof; and of taking and holding, by purchase or gift, all such lands, tenements, and hereditaments, real and personal property, as may be necessary for the prosecution of their works, or the objects of this corporation; they shall have power to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, in any court of law or equity, or elsewhere; also, to have and use a common seal; and generally to do all and every matter or thing which a corporation may lawfully do, to effect the objects for which this corporation is created.

Sections of the charter of the Warsaw Turnpike Road adopted.

§ 7. That so much of an act, entitled, an act to incorporate the Warsaw turnpike road company, passed and approved February 12, 1849, as is embraced in sections seven, eight, nine, ten, and eleven, be and the same is hereby re-enacted and adopted as a part of this act, except that part of section nine where the name of Gallatin is used in said section, the name of Boone shall be used in this act: *Provided*, that nothing herein shall authorize any subscription of stock upon the part of the state.

Approved January 7, 1852.

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CHAPTER 378.

1852.

AN ACT to amend an act, entitled, an act to charter the city of Louisville, approved March 24, 1851, and for other purposes.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, hereafter, the general council of the city of Louisville shall have power to grant licenses for billiard tables and Jenny Lind tables, to be kept in said city; and all the regulations of the sixth article of an act, entitled, an act to charter the city of Louisville, approved March 24, 1851, in regard to licenses for bowling alleys, shall be and are hereby made applicable to the licenses hereby authorized.

Council may
license billiard
and Jenny Lind
tables.

§ 2. Before any license for a billiard or Jenny Lind table shall take effect, the grantee thereof shall pay to the clerk of the Jefferson county court, in addition to the tax charged by the city of Louisville, the sum of two hundred dollars, and procure said clerk's certificate of such payment on the back of said license; for every such certificate the clerk shall be entitled to fifty cents, to be paid by the applicant.

Amount of tax.

§ 3. Said clerk shall account for the moneys so received by him, under the second section of this act, as for other taxes, and the same shall be carried to the credit of the sinking fund of the state of Kentucky.

Clerk to ac-
count for tax.

§ 4. The provisions of this act shall, in all respects, be applicable to the city of Lexington.

Shall apply to
Lexington.

Approved January 7, 1852.

CHAPTER 379.

AN ACT to amend an act, entitled, an act to take the sense of the people of Owsley county for the purpose of changing the county seat of said county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act, entitled, an act to take the sense of the people of Owsley county for the purpose of changing the county seat of said county, approved December the 20th, 1851, be and the same is hereby so changed and amended that the county seat of said county shall not be moved from its present location to the town of Proctor, in said county, unless, at the election provided for in said act, a majority of all the qualified voters of said county shall have voted for said removal; the number of qualified voters in said county to be ascertained by the commissioner's book for said county, as returned for the year 1851.

Approved January 7, 1852.

1852.

CHAPTER 380.

AN ACT to repeal all laws authorizing the County Court of Perry county to remove the Mill Dam of James Johnston across the Middle Fork of the Kentucky river.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all laws authorizing the county court of Perry county to remove the mill dam of James Johnston, across the middle fork of the Kentucky river, be and the same are hereby repealed.

§ 2. That the legislature shall hereafter have power to remove said dam.

Approved January 7, 1852.

CHAPTER 381.

AN ACT to incorporate the People's Turnpike Road Company.

Company incor-
porated.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company shall be formed, under the name, style, and title of the People's turnpike road company, for the sole purpose of forming and maintaining an artificial road from Burlington, in Boone county, to the Mitchellsville and Dry Creek road, and to intersect the same at some convenient point to be determined by the president and directors of said company.

Capital stock.

§ 2. The capital stock of said company shall be eight thousand dollars; and the company aforesaid is hereby authorized to raise, by subscription, the sum aforesaid, to be divided into shares of twenty-five dollars each.

Books to be
opened.

Commissioners.

§ 3. That the books for the subscription of stock in said company shall be opened, at any time after the passage of this act, at the town of Burlington, and at such other places as may be convenient, under the direction of Benjamin W. Sherrill, William Collins, Chiles Coleman, Lewis Webb, William Rouse, Benjamin Craven, Lewis Dills, and Milton Hamilton. That said commissioners, or any one or more of them, appointed by this act to open books for the subscription of the capital stock of said company, shall procure one or more books, and the subscribers to the stock of said company shall enter into the following obligation in said book or books, to-wit: "We, whose names are hereunto subscribed, do promise to pay to the president, directors, and company of the People's turnpike road company, the sum of twenty-five dollars for each and every share of stock in said company set opposite to our names, in such manner and proportions, and at such times as shall be required by the president and directors of said company."

Contract.

How long to
remain open.

§ 4. The books or subscription of said stock shall remain open until the whole of the capital stock shall have been taken, or enough to complete the road; and persons may subscribe at any time until the books are closed.

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§ 5. That so soon as two hundred and ten shares in said company are subscribed, it shall be the duty of said commissioners, or some one of them, to give notice of a meeting of the stockholders of said company, to meet in the town of Burlington, for the purpose of choosing officers; said notices to be put up at three different places in the town of Burlington ten days previous to said meeting; at which election at least two of said commissioners shall be present, who shall proceed to take the votes, by ballot, of said stockholders, each stockholder having one vote for every share so held, for a president and four directors, who shall hold their offices for one year, and until others shall be duly qualified.

§ 6. That as soon as the company is organized, the president, managers, and other officers, shall possess all the powers, authority, rights, and privileges, and shall and may do all acts and things necessary for carrying on and completing said turnpike road, as well as laying out and locating the road, and shall be subject to all the duties, qualifications, restrictions, penalties, fines, and forfeitures (if any,) and be entitled to like tolls and profits as are given and granted to the Burlington and Florence turnpike road company, by an act, approved March 18, 1851; and all the provisions of said act are hereby revived and made part hereof, except so far as they are local in their application, or come in collision with the foregoing sections: *Provided, also*, that the treasurer of this company shall only be required to execute bond in the penalty of three thousand dollars; and said company shall never be permitted to erect more than one gate; and the said road shall commence from a point north of the town of Burlington, at the foot of Garrard street. The said road shall not be less than twenty-five nor more than thirty feet wide, and the work shall be commenced in good faith on or before the first day of January, 1858.

Approved January 7, 1852.

CHAPTER 392.

AN ACT to incorporate the Maysville and Blue Run Plank or Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company is hereby formed, under the name and style of the Maysville and Blue run plank or turnpike road company, for the purpose of constructing a plank, stone, or gravel road from the city of Maysville to the point where the Dover road crosses Blue run, near Benjamin Moran's, in Mason county.

§ 2. The capital stock of said company shall be eight thousand dollars, to be divided into shares of fifty dollars

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Organization.

Corporate powers.

Treasurer to give bond.

Corporate name.

Capital stock.

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each ; and if it be ascertained that said sum is insufficient to accomplish the object of this act, then the president and directors may increase it to such amount as they may deem necessary, and receive subscriptions of stock therefor in such way as they may deem proper.

Books to be opened.

Commissioners.

Contract.

§ 3. Books for the subscription of stock in said company shall be opened on the first Monday in April next, or as soon thereafter as may be convenient, at the city of Maysville, under the direction of Stanislaus Mitchell, John T. Wood, Thomas Neal, Lewis Martin, William A. Lloyd, and John A. Keith, or some two or more of them, who are hereby appointed commissioners. They shall procure a book or books, and subscribers to the stock of said company shall enter into and subscribe the following agreement therein, viz : " We, whose names are hereunto subscribed, severally promise to pay the president, directors, and company of the Maysville and Blue run plank or turnpike road company the sum of fifty dollars for each and every share of stock set opposite our several names, in such manner and proportion, and at such times as shall be determined on by the president and directors of said company. Witness our hands this — day of —."

Powers of directors.

§ 4. The president and directors shall have power and authority to let out portions of said road to individuals, who may agree to construct the same, and take their pay therefor in the stock of said company: *Provided*, they do not agree to allow for the construction thereof more than the cost estimated by the engineer.

How road to be made.

§ 5. That the company shall be allowed to use stone, plank, or gravel, as they may elect, in the construction of said road, or any part thereof.

Organization of company.

§ 6. Whenever the sum of four thousand dollars of stock shall be subscribed, the company may organize by the election of a president and five directors, who may proceed to put under contract such part or parts of said road as they may deem proper, having due regard to the locality of stock subscribed.

Stock may be paid in work.

§ 7. Individuals and companies shall be allowed to subscribe as stock in said company, that they will construct one mile or more, or a fraction of a mile of said road, and may designate the beginning point ; and such subscription shall be construed as making a part of the four thousand dollars of stock, upon the taking of which the company shall organize, at the rate of eighteen hundred dollars per mile ; but in actual stock, such subscription shall be such sum as the engineer, with the concurrence of the president and directors, shall estimate the cost to be.

Sections of charter of Maysville and Bull Creek turnpike adopted.

§ 8. That the tenth, eleventh, and fifteenth sections of an act to incorporate the Maysville and Bull creek plank road company, approved December 15, 1850, are hereby re-enacted and made part of this act ; and that said Maysville

and Blue run plank or turnpike road company shall have and exercise all the powers, privileges, rights, and immunities in said sections contained, and all others given and conferred on the Maysville and Bull creek plank road company, and shall be subject to all the liabilities imposed upon said company.

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Approved January 7, 1852.

CHAPTER 383.

AN ACT for the benefit of the heirs of James Gay, deceased.

WHEREAS, it is represented that James Gay and Alexander Dunlap, of Woodford county, were equal joint purchasers and owners of a tract of two hundred acres of land lying on the waters of South Elkhorn, in said county, and it is also represented that the said James Gay was the sole owner of a tract of fifty acres of land, in said county, and that the said Gay and Dunlap, by a parol contract, executed at the time of making the same, agreed to exchange land, Dunlap giving his interest in the tract of two hundred acres to the said Gay for the tract of fifty acres aforesaid; that each took possession of the land exchanged for as aforesaid, and have ever since held possession thereof; but that no conveyance has ever been made from Gay to Dunlap, or from Dunlap to Gay, nor is there any contract in writing, or memorandum concerning said exchange; and whereas, it is also represented that James Gay has departed this life, after having devised his estate to his children, eleven in number, of whom Agnes D. Gay, Watson Gay, Rebecca Gay, and Catharine Gay are now infants, and that Alexander Dunlap has also departed this life, after having devised his estate to his widow and three children, George C. Dunlap, Susan Field, and William A. Dunlap, and also appointing the said William A. Dunlap executor of his last will and testament, the will of Gay disposing of the tract of two hundred acres and the will of Dunlap disposing of the tract of fifty acres; and it being also represented that it will be greatly to the interest of said infants that the exchange made by the said Gay and Dunlap, in their lifetime, should be completed by a proper conveyance, on the part of said infants, of any interest they may have in said fifty acres of land. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the guardian of Agnes D. Gay, Watson Gay, Rebecca Gay, and Catharine Gay, on their behalf, to file a petition in equity, in the Woodford circuit court, against William A. Dunlap, as executor and devisee, Mary Dunlap, widow, and George C. Dunlap and Susan M. Field, devisees of Alexander Dunlap; deceased, alleging the foregoing facts, and stating on

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oath, that in his opinion a conveyance of said fifty acres, on their part, will be advantageous to the said infants; and the said court being satisfied, either by written or parol evidence, of the truth of the allegations of said petition, and that a conveyance will redound to the interest of said infants, is hereby authorized to decree a conveyance, on the part of said infants, of any interest they may have in said tract of fifty acres of land, to the devisees of said A. Dunlap, deceased, by a commissioner appointed for that purpose, which title shall enure to the benefit of the vendee of the devisees of said A. Dunlap, and the court is also authorized to make all orders that may be necessary and equitable in the case.

Approved January 7, 1852.

CHAPTER 384.

AN ACT authorizing James Haggard to solemnize marriages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James Haggard be and he is hereby authorized to solemnize marriages in the county of Cumberland.

Approved January 7, 1852.

CHAPTER 385.

AN ACT for the benefit of the sheriffs of Henry, Owen, Knox, Perry, and Wayne counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriffs of Henry, Owen, Knox, Perry, and Wayne counties be and each of them is allowed further time until the 10th day of February, 1852, to return their delinquent lists.

Approved January 7, 1852.

CHAPTER 386.

AN ACT to extend the corporate limits of the town of Henderson, in Henderson county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the boundaries of the town of Henderson, in the county of Henderson, be so extended as to include lots Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, and so much of lot No. 20 as lies north of the Madisonville road, as originally laid off on the plat of said town, of record in the clerk's office of the Henderson county court, and the same being stricken off from said town by an act of the legislature passed in the year 1825; and

that the above described lots and part of lot, as laid off on said plat, be and the same are hereby incorporated in the limits of said town of Henderson; and all the corporation laws, ordinances, and regulations thereof are hereby extended over the same.

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Approved January 7, 1852.

CHAPTER 387.

AN ACT to grant certain privileges to the Dutch Ridge Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the president and managers of the Dutch ridge turnpike road company may erect a toll gate on said road at or near the stone bridge which crosses little Bracken creek, on the route of said turnpike road; and that they may regulate the tolls on said road at any sum not exceeding the amount fixed in their charter.

Approved January 7, 1852.

CHAPTER 388.

AN ACT to incorporate the Presbyterian Academy, of Greenville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Burr H. McCoun, John D. Matthews, John J. Pierce, Joseph B. Hadden, William Rice, James Hawthorne, Alban Hensley, William G. Allen, Isaac Bard, Benjamin Porter, John Cochran, James Bibb, Doctor Montgomery, John McCullough, Alney Denis, John Baxter, Benjamin Wilson, Robert Clarke, and their successors, be and they are hereby constituted a body politic and corporate, by the name and style of the trustees of the presbyterian academy of Greenville, under the care and control of the Muhlenburg presbytery; and, as such, shall have perpetual succession, with full power to acquire, hold, and transfer real and personal estate, make contracts, sue and be sued, plead and be impleaded, in their corporate capacity; to make, have, and use a common seal, and the same to break, alter, or destroy at pleasure; and also to make such rules, by-laws, and ordinances as may be necessary for the government of said corporation, not inconsistent with the laws of this state.

Corporators

Corporate name and powers.

§ 2. That the trustees above named shall hold their offices for one year, and until their successors are elected and duly qualified, unless otherwise ordered by said presbytery; and said presbytery is hereby vested with full power to choose and elect successors to the trustees mentioned in the first section of this act.

Trustees; their term of office.

§ 3. That said trustees and their successors shall have power to manage the funds and property committed to

To manage school funds, &c

1852. their care, in such manner as they may deem most advantageous to said school.
- Trustees may elect other officers. § 4. That said trustees, and their successors in office, shall have power to elect a chairman, treasurer, and secretary; and said secretary shall keep a faithful record of the proceedings of said board of trustees, and report the same annually to said presbytery.
- Presbytery to elect professors. § 5. That said presbytery shall have power to elect the president, professors, and teachers of said school.
- Vacancies—how filled. § 6. That the trustees of said school shall have power to fill any vacancy which may occur in said board of trustees by death, resignation, or otherwise; and the trustee so appointed shall hold his office until supereded by an appointment by said presbytery.
- Course of study. § 7. That the trustees of said school shall have power to establish the course of study therein, collect the funds and donations of said school, and disburse the same in the manner prescribed in the third section of this act; and shall have power to regulate and pay the salaries of the teachers employed in said school.
- Repealing power reserved. § 8. The general assembly hereby reserves the power to repeal or alter this charter at any time it may be deemed proper to do so.

Approved January 7, 1852.

CHAPTER 389.

AN ACT for the benefit of George W. Lewis.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there is hereby appropriated out of the public treasury ten dollars, to be paid out of any money not otherwise appropriated, to George W. Lewis.

Approved January 7, 1852.

CHAPTER 390.

AN ACT to incorporate the Versailles and Woodford county Railroad Company.

Commissioners. § 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That David Thornton, Medley Shelton, Burkit Cloak, John H. Slaughter, Robert McConnell, W. W. Whittington, Thomas Sellers, J. W. Martin, Dr. Hes, Saml Nuckols, L. A. Berry, John Barkley, Thomas Porter, W. Barr, K. C. Goodloe, George W. Carter, or a majority of them, be and they are hereby appointed commissioners, who, or a majority of whom, shall be authorized, after giving twenty days notice, at three or more public places in Woodford county, to open books at such place as they may designate, for subscriptions of stock in a railroad or

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branch railroad to be made from some point in the Louisville and Frankfort railroad or Lexington and Frankfort railroad, to pass through or near the town of Versailles, in said county of Woodford, to Harrodsburg or Danville, or to connect with any other railroad which may be constructed from the Louisville and Frankfort railroad to any place in this commonwealth; when the sum of one hundred thousand dollars shall have been subscribed, in shares of fifty dollars, and one dollar on the share paid in, the said commissioners, or a majority of them, shall give notice of the fact, and the subscribers shall meet together at such place as the commissioners aforesaid may designate, and elect not less than five nor more than seven directors, and they, when elected, may select from amongst themselves a president.

§ 2. When thus organized, the said president and directors shall constitute a body corporate and politic, by the name of the Versailles and Woodford county railroad company, and shall have and possess all the powers and privileges now given by law to the Louisville and Frankfort railroad company, and shall have the right of receiving relinquishments for lands, or making condemnations thereof, for the purposes of their road, in the same way and manner, and to the same extent the Louisville and Frankfort railroad company have the same by law.

Corporate name and powers.

§ 3. It shall be lawful for the county court of Woodford to subscribe any amount of stock in said road, not exceeding two hundred thousand dollars, if a majority of the qualified voters of said county, voting at any election to be ordered by the county court, shall assent thereto, and assent that the same shall be raised by taxation on the same property on which the revenue tax in said county is assessed, or shall assent to the levy of an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years, on the bonds that may be issued by said county court in payment of the subscription. The vote shall be for and against the railroad subscription when taken, and this shall determine the right to subscribe or not, under this act.

Duty of county court.

§ 4. The same officers shall hold the election who are appointed to hold the general elections, or, in their absence, such others as the county court may appoint, and the election conducted in the same way any election for any officers of this state is required to be conducted.

Officers to hold election.

§ 5. It shall be lawful, if the subscription is authorized by a vote as aforesaid, for the county court to make the subscription, and pay for the same in bonds, to be issued in the name of the county court, and also levy a tax by ordering the sheriff or other officers collecting the revenue to collect a tax on the taxable property of the citizens of the county, each and every year, sufficient to pay the interest

County court may subscribe to stock.

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Certificates of
stock.If company
organized by
private subscrip-
tion.Corporate
powers.

Branch road.

on the bonds, or to pay the amount required for the payment of the calls upon the subscription.

§ 6. If the payment is made by direct tax, each tax payer shall be entitled to a certificate of stock for the amount paid, which shall make him a stockholder to the amount paid. These stock certificates shall be transferable and assignable as original subscriptions.

§ 7. If a company is organized by private subscription and issuing of bonds by the county, a sum sufficient to make the road shall be fixed upon and entered upon the records of the county court, as the capital stock of the company; and when thus fixed upon, the president and directors of the company may, from time to time, open books for subscription of stock, and keep the same open until the same is taken, or they shall have power to pledge the stock subscribed, and mortgage the road or track fixed upon to raise money, from time to time, to construct said road.

§ 8. If the company is organized as aforesaid, they shall have all the privileges given to the Louisville and Frankfort railroad company, as an incorporated company, and shall have the same restrictions, limitations, and penalties, imposed upon them.

§ 9. The said company shall have power to unite as a branch road with the Louisville and Frankfort railroad, or Lexington and Frankfort railroad, on such terms as may be agreed upon, and, if thus united, they may agree to become stockholders in the road with which they unite, and shall thereafter be part of the road with which they unite, and their corporate existence merged therein; and thereafter the Lexington and Frankfort road or Louisville and Frankfort road shall have the control and direction of the branch road, in the same manner as if the same had been made originally as a part of their road; or the said company hereby incorporated may be and continue under their own organization as a company, and unite with the other roads on terms to be agreed upon, giving them the advantages of a branch road, but they keeping and having their separate organization, and controlling and regulating their own affairs, except so far as may be otherwise agreed upon.

Approved January 9, 1852.

CHAPTER 391.

AN ACT to incorporate Devotion Lodge, No. 160, of Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the present members, and all who may hereafter become members of Devotion Lodge, No. 160, of free and accepted masons, under the jurisdic-*

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tion of the grand lodge of Kentucky, be and they are hereby created a body politic and corporate, by the name and style of Devotion Lodge, No. 160, and, as such, shall have perpetual succession; and be capable, in their corporate capacity, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, in all courts of law and equity; may have and use a common seal; shall be capable of receiving, acquiring, and holding, either by gift, purchase, or devise, or otherwise, any estate, either real or personal, necessary for the support of said lodge, not exceeding in value twenty thousand dollars, and may lease, mortgage, rent, sell, and convey the same; and shall have power to make, amend, alter, and enforce all by-laws, rules, and regulations for the government of said corporation, and for the management of its property, as may not be inconsistent with the laws and constitution of this commonwealth and of the United States.

§ 2. That the general assembly shall have power to amend or repeal this act at pleasure; but no such alteration or repeal shall divest said corporation of its claim or right to its levy funds.

Approved January 9, 1852.

CHAPTER 392.

AN ACT to incorporate the General Association of Baptists in Kentucky.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That J. L. Reynolds, F. C. McCalla, G. B. Long, D. H. Smith, L. C. Stedman, J. E. Farnam, S. F. Gano, J. D. Winston, A. M. Lyon, J. M. Pratt, D. Thomas, R. M. Ewing, J. M. Frost, S. W. Lind, Y. R. Pitts, R. T. Dillard, D. R. Campbell, J. D. Black, J. P. Campbell, J. Holliday, Thomas Y. Payne, T. Porter, J. C. Graves, N. Long, R. E. Allen, A. Drury, Will. Head, B. C. Stevens, S. Dyer, R. T. Anderson, J. A. Kirtley, J. M. Pendleton, A. R. Macy, A. D. Sears, W. W. Gardner, W. R. Combs, S. L. Helm, J. L. Waller, B. F. Kinney, V. E. Kirtley, R. L. Thurman, C. Lewis, D. S. Colgan, P. B. Samuel, S. Chorn, R. French, and S. V. Potts, together with their successors, shall be and they are hereby constituted a body corporate, to be known and designated by the name and style of the general association of baptists in Kentucky, and, by that name, shall have perpetual succession, and a common seal, with power to change and alter the same at pleasure; and, as a body corporate, they shall have full power to institute, pursue, adopt, and carry into effect such measures as to them may be thought best for the promotion of morality, benevolence, and religion, not inconsistent with the laws of this commonwealth.

Corporators.

§ 2. That said corporation may sue and be sued, plead

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May hold real
estate, sue, &c.

and be impleaded, defend and be defended, in any of the courts in this commonwealth. That they are hereby invested with full power and authority, in their corporate capacity, to purchase or receive, by donation, devise, or bequest, lands, tenements, hereditaments, money, rents, goods, and chattels, and to alien, sell and convey the same for the uses and purposes of the corporation; but they are hereby prohibited from holding, at any one time, real estate, acquired by any of the modes aforesaid, to a greater amount in value than fifty thousand dollars.

§ 3. That said corporation shall have power to take, hold, and receive any donation, devise, or bequest to them made, of any estate, real or personal, for any moral, benevolent, or religious purpose, and shall hold, use, and dispose of the same, if accepted according to the intentions and directions of the donor as expressed in the donation, devise, or bequest.

Time and place
of meeting.

§ 4. That said corporation shall have full power to admit, elect, or appoint its members and officers, to select such times and places for its meetings, and the transaction of its business, and to make such by-laws, rules, and ordinances for their own government as they may think best, not being inconsistent with the laws of this commonwealth.

Account of
proceedings.

§ 5. It shall be the duty of said corporation, by proper officers, to keep a full, true, and complete record of all its acts and proceedings in a book or books to be provided for that purpose. Full power is hereby reserved to the general assembly to amend or modify this act whenever, in their opinion, the public interest may require it.

Approved January 9, 1852.

CHAPTER 395.

AN ACT to authorize the Trustees of the town of Uniontown to license Coffee Houses.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of the town of Uniontown, Union county, are hereby authorized to grant coffee house license, within the corporate limits of the town, upon the person applying for such license paying to the clerk of the county court of Union county any sum the county court may require, not less than ten or more than twenty-five dollars, to be accounted for by such clerk as other revenue taxes collected by him, and also paying to the trustees of the town any sum they may require, not exceeding twenty-five dollars, for the use of the town treasury.

§ 2. That before any license shall issue, the person applying for the same shall execute bond, with good and sufficient security, in the clerk's office of the county court of Union county, in the penalty of five hundred dollars, conditioned to keep a good and orderly house.

Approved January 9, 1852.

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AN ACT to establish a part of the line between the counties of Lawrence, Pike, and Floyd.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the line dividing the counties of Pike, Lawrence, and Floyd be and the same is hereby established as follows, to-wit: beginning on Wolf creek, at the mouth of Pidgeon roost fork of said creek; thence up said fork to the top of the dividing ridge between the headwaters thereof and the waters of Emily branch; thence on the top of the dividing ridge between the waters of Wolf creek and Big creek to the point thereof nearest to the tug fork of Big Sandy; thence on the top of the dividing ridge between the waters of Wolf creek and the waters of the tug fork of Big Sandy river to the head of the long branch (a branch of the tug fork;) thence down the long branch, and on the lower side thereof, so as to include within the county of Pike all the bottom land on the same, down to the bank of the tug fork.

§ 2. That William Cecil, county surveyor of Pike county, is hereby authorized and required, on or before the first of July next, to run and plainly mark the line hereby established, for which the county court of Pike county shall make him a reasonable allowance, to be paid out of the county levy of said county.

Approved January 9, 1852.

CHAPTER 397.

AN ACT to regulate the roads in Knox county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all laws which give the Clay county court, or commissioners of Clay county, jurisdiction over any roads in Knox county, be and the same is hereby repealed.

§ 2. That the Knox county court shall have full jurisdiction of that part of the Goose creek Salt Works road, lying in Knox county, from Joseph Payne's to the Clay county line; and the court shall exercise the same jurisdiction over said road that it does over other roads in the county, and that part of said road shall be entitled to its proportionable part of the money belonging to that road, in proportion to the distance.

§ 3. That it shall be the duty of the county court of Knox county, at its February or April terms, to appoint an overseer for said road.

§ 4. That the Knox county court shall have power and authority to order a change of the state road in Knox county, after the proposed change shall have been re-

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viewed by three commissioners appointed for that purpose, and a report by them in favor of said change.

Approved January 9, 1852.

CHAPTER 398.

AN ACT declaring certain Newspapers authorized to publish legal advertisements.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Somerset Gazette, printed and published by John P. Bruce, in the town of Somerset, in Pulaski county, is hereby declared to be an authorized public newspaper of this state.

§ 2. That the Bardstown Herald, published in Bardstown, the Paducah Journal, published at Paducah by H. M. McCarty, and the Weekly Messenger, published in Richmond by Rowland & Shackelford, be and the same are hereby declared to be each an authorized newspaper.

Approved January 9, 1852.

CHAPTER 399.

AN ACT for the benefit of James M. Todd, Sheriff of Lewis county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James M. Todd, the sheriff of Lewis county, shall have until the first day of March next to return his delinquent list for the revenue for the year 1851: *Provided, however*, this act shall not take effect until the sureties of the said Todd in his official bond shall first consent, in writing, to the indulgence granted by the act, signed by them and deposited in the office of the county court of Lewis county.

Approved January 9, 1852.

CHAPTER 400.

AN ACT for the benefit of William S. Parker, late Sheriff of Lewis county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That William S. Parker, late sheriff of Lewis county, have and be allowed the further time of one year from the 11th of January, 1852, to collect the taxes, fee bills, muster fines, &c., due in and for the year 1849.

Approved January 9, 1852.

CHAPTER 401.

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AN ACT to authorize the election of a Police Judge, Marshal, and Tax Commissioner in the town of Columbus.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the trustees of the town of Columbus, on such day as they may deem proper, and on the same day in every succeeding year thereafter, to order an election, to be conducted according to the general election laws of this commonwealth, of a police judge, town marshal, and tax commissioner for said town, who shall hold their offices for the term of two years, and until their successors are duly qualified.

Trustees may fix day of election.

§ 2. The officers thus elected shall, in all things, exercise, within the limits of said town, their powers and authority, and in all things their responsibilities be as follows: The police judge those of a justice of the peace, the marshal those of a constable, and the tax commissioner the usual powers of that officer, under the laws of this commonwealth; and shall receive the same fees as those officers, respectively.

Powers of officers.

§ 3. The marshal shall collect and pay over to the treasurer of the board of trustees all taxes laid by the trustees of said town, for any purpose whatsoever, and for this purpose may sell and convey, under such rules and regulations as the trustees may, from time to time, prescribe, any property in said town, real and personal, and all fines legally assessed by the police judge or trustees of said town, for a violation of any law of this commonwealth, or regulation of the town aforesaid; and shall account for all collections by him made as by law required of other similar officers: *Provided*, that no real estate shall be sold for taxes unless the same shall have been due for six months, and the time and place of sale has been advertised, as sheriffs are required to advertise sales of land under execution. When any real estate shall be sold for taxes, if the same be susceptible of division, so much only shall be sold as will be sufficient to pay the tax due; and any person whose land shall be so sold, shall have the right to redeem the same within three years, on paying the tax and twenty-five per cent. per annum interest thereon; and where any real estate shall be so sold, which is owned entirely by an infant or infants, they shall have the right to redeem within three years after the oldest of said infants comes of age, by paying the tax, with twenty-five per cent. per annum for the first three years, and six per cent. per annum for the residue of the time.

Duty of marshal

When real estate may be sold for taxes.

May redeem the property sold.

Approved January 9, 1852.

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CHAPTER 402.

AN ACT for the benefit of the children of Alexander Hammond, deceased.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for Eliza A. Hammond, guardian for her infant children, Givens, Rebecca, Jane, and Erskine Hammond, all of the state of Missouri, to demand of John Hammond, of the county of Nelson, in this state, a settlement of his accounts as guardian for said children in Kentucky, and to demand from him, or any other person in Kentucky, any money, slaves, or other property belonging or due to said children; and upon the producing a certified copy of her appointment as guardian, by the proper court in Missouri, together with a copy of her bond as guardian heretofore executed, or hereafter to be executed, before the proper authority in Missouri, with surety approved by such authority, in a penalty sufficient to secure the interests of said children in the premises, it shall be the duty of the said John Hammond, or any other person having in possession of money, slaves, or other moveable property of said children, to deliver the same to her, and take her receipt therefor, as guardian.

§ 2. That it shall be lawful for said Eliza A. Hammond to remove any money, slaves, or other property so acquired by her, to the state of Missouri, where she and said children reside, and account for the same to them as guardian. No forfeiture of any right of dower which said Eliza A. may have in any such slaves shall arise, or be occasioned by her so removing them to the state of Missouri, where she and her children reside.

Approved January 9, 1852.

CHAPTER 403.

AN ACT to amend the act incorporating the town of Mountsterling, and to provide for the appointment of a watchman for said town, and for the county of Montgomery.

Town watch.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the trustees of the town of Mountsterling are hereby authorized to appoint, annually, or oftener in case of vacancy, one efficient watchman for said town, having authority and power as a patrol, who shall be allowed a reasonable compensation for his services, to be fixed by said trustees; such part as may be allowed by said trustees to be paid out of the revenue of said town, and such part as may be allowed by the county court of Montgomery county, a majority of the justices acting, to be paid out of the county levy.

Powers and duties of watch

§ 2. That said watchman shall be authorized, whenever he may deem it expedient, to visit any point in said coun-

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ty, as a patrol. The trustees, by their ordinance, shall prescribe his duties to be performed within the bounds of said town, or within one half mile of its limits; and the county court of said county may prescribe his duties any where else in said county. But in the absence of the act of the county court, he shall be governed by the laws then in force in reference to patrols. He shall be subject to removal, by order of the majority of the trustees, or by the police judge, on the petition of a majority of those authorized to vote for trustees of said town:

§ 3. That said watchman may appoint one or more assistants, for the time being, to aid him in the discharge of his duties; and any persons refusing to assist him, when called upon in an emergency, shall be fined by order of the police judge of said town, or of any justice of the peace of said county, in any sum not exceeding twenty dollars; but such person shall have the right of appeal to the circuit court of said county, under the laws regulating appeals from the decisions of justices of the peace in civil cases.

May appoint assistants.

§ 4. That any person who shall deposit, by himself, infant child, or servant, any dead carcass in the streets of said town, or on any lot or other place within the town limits, or within three hundred yards of the town limits, shall be fined not less than five nor more than twenty dollars for each offense, by order of the police judge of said town or any justice of the peace of said county, on complaint being made by an individual, or by the trustees.

Fines imposed in certain cases.

§ 5. That if a majority of the qualified voters of said county shall petition their county court to make an annual appropriation to support the town watch in said town and county, then the said court shall allow such sum as may be named in the petition.

Compensation.

Approved January 9, 1852. |

CHAPTER 404.

AN ACT to incorporate the Hall of Simpson Benevolent Lodge, No. 177, Ancient Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That R. D. Salmana, president, and John C. McCreery and John A. Carter, directors, and their successors and associates in office, be and they are hereby created and declared a body corporate and politic, to be known by the name and style of the president and directors of the hall of Simpson Benevolent lodge, No. 177, ancient free and accepted masons.

Style of corporation.

§ 2. They shall hold, for the use and benefit of the stockholders, all estate, real, personal, and mixed, that is or may hereafter be conveyed to them or the stockholders for that purpose, and shall have the power, by that name, of con-

Powers of corporation.

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tracting and being contracted with, of suing and being sued: *Provided*, that in making contracts affecting the interests of the stockholders, and in the transacting their corporate business, they shall be governed by the original charter of said company, and by any by-laws, rules, or restrictions that may be thrown around them by the stockholders.

§ 3. Said stockholders shall have the power to enact all rules and by-laws deemed necessary for the government of said company, not inconsistent with the laws of this commonwealth, this act, or the charter of said company; and they may increase the number of directors, if deemed advisable, not exceeding five.

Elections.

§ 4. The president and directors aforesaid shall be elected annually, at such time as the stockholders may determine; and all officers shall continue in office from the close of their terms until their successors shall be duly elected: *Provided*, that the president and directors shall have power to elect persons to fill the unexpired terms of any of those offices, becoming vacant by death, resignation, or otherwise: *And, provided, further*, that all said officers shall be members of the lodge.

Powers of the stockholders.

§ 5. The stockholders shall have the power to sell and dispose of their respective stock, by an assignment of the same, or a certificate representing the same; and such assignment shall be as affectual in passing their interest in the property of the company as a conveyance by any other mode.

§ 6. Said corporation shall have perpetual succession, under such rules as may be prescribed by the stockholders, not inconsistent with the constitution and laws of this commonwealth.

§ 7. The general assembly of this commonwealth hereby reserves the right to repeal or modify this act at pleasure.

Approved January 9, 1852.

CHAPTER 405.

AN ACT to incorporate the Union Agricultural and Mechanical Association.

Style of corporation.

WHEREAS, divers persons of the counties of Shelby, Oldham, and Henry, and other counties in this commonwealth, have organized an association, under the name and style of the "union agricultural and mechanical association," for the purpose of promoting agriculture, including not only the great staples of industry and trade, but also fruits, vegetables, and ornamental gardening, the promotion of the mechanic arts in all their branches, the improvement of the races of all useful and domestic animals, the general advancement of rural economy and household manu-

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factures, and the dissemination of useful information on these subjects, and, for that purpose, have adopted a constitution and by-laws, and chosen a president and ten directors to control and manage the affairs thereof, and have applied to the general assembly for an act of incorporation, Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That said association be and it is hereby created a body politic and corporate, with perpetual succession, under the name and style of the "union agricultural and mechanical association;" and, by that name, may sue and be sued, plead and be impleaded, defend and be defended, in all courts of law or equity; and shall be capable of acquiring, by purchase or otherwise, any quantity of land not exceeding thirty acres, and may improve, and sell, and convey the same, or any part thereof, at pleasure; and may acquire, hold, and dispose of such personal estate as the president and directors of said association may deem necessary and proper. The said association may adopt and use a corporate seal, and alter the same at pleasure, or may use the seal of its president for the time being.

May hold real estate.

May have a corporate seal.

§ 2. That the president and directors already chosen, as aforesaid, shall continue in office until the first Saturday in May, 1852, and until their successors are duly elected and qualified. An election, however, of a president and ten directors shall be had on the first Saturday in May next, by the qualified members of said association, and annually thereafter, unless the members of said association, at said annual election, shall, by resolution, fix upon a different day; and they may, at their annual election, reduce the number of directors; said president and directors to reside in and be equally distributed between the counties of Shelby, Oldham, and Henry.

President and directors continue in office.

Number of directors may be reduced.

§ 3. The prudential, fiscal, and other concerns of said association, together with all its estate of every kind, shall be under the control and management of the president and directors aforesaid; and they shall have power to appoint a treasurer and secretary, and such other inferior officers as they may deem necessary in carrying out the purposes of said association; and they may require of such inferior officers, or either of them, so elected, bond with good security for the faithful discharge of his or their duty. Said president and directors shall have power to make such regulations and by-laws, not inconsistent with the constitution and laws of this commonwealth, as, in their opinion, may contribute to the good order and management of said association, and may, from time to time, modify and repeal the same at pleasure. They shall have power to contract and be contracted with, in their corporate name, and to do any and every other act, not inconsistent with

- 1852.** the constitution and laws of this commonwealth, which, in their opinion, will contribute to advance the objects of said association.
- Quorum.** § 4. Any five members of the directors, together with the president, shall be a quorum for the transaction of business, unless the association shall fix on and require a different number.
- Liabie for debts.** § 5. That said association, in its corporate capacity, with all the estate belonging thereto, be liable for any debts heretofore contracted by it, or by its authority, as fully as though the same had been contracted since the passage of this act.
- Real estate under control of stockholders.** § 6. That all the real estate of said association, improvements thereon, or which may be put thereon, as well as the income and proceeds thereof, and the entire control and management of the same, shall belong to and be controlled by the life members or stockholders of said association, according to the provisions of the present constitution of said association. Each life member shall receive a certificate of stock, which may be transferred as other estate.
- Selling of liquor prohibited.** § 7. That no spirituous liquors shall, directly or indirectly, during the continuance of any fair of said association, be sold upon the premises used for any such fair, nor shall any such liquor, during any such time, be sold, either directly or indirectly, upon any road or lands adjoining or within one quarter of a mile of said fair grounds, under the penalty of twenty dollars for each and every such offense, to be recovered, with costs, by warrant, before any justice of the peace in the county of Henry, in the name of the commonwealth, and for the use of said association, in its corporate capacity; and each separate act of selling shall be a separate offense; and all such fines, so recovered, shall belong to said association.
- Approved January 9, 1852.

CHAPTER 406.

AN ACT to amend the charter of the Louisville and Frankfort Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the 49th section of the Louisville and Frankfort railroad company be so amended as to authorize said company to contract with any other railroad company, chartered by this state, to allow a connection at an angle less than twenty degrees, and also as to the terms and conditions of such connection; and the Louisville and Frankfort railroad company may subscribe, purchase, and hold stock in any such connecting railroad.

§ 2. That there shall be a general meeting of the stock-

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holders of the Louisville and Frankfort railroad company, on the first Monday of July in each year, at the office of the company in Louisville, at which time the president and directors shall lay before them a report of the transactions of the company for the preceding year, and the condition of the finances and business of the company; and hereafter the annual election of directors of said company shall be held on the first Monday in July in each year.

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Approved January 9, 1852.

CHAPTER 407.

AN ACT for the benefit of John Crume.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for Jno. Crume to erect a mill dam across the Beech Fork, a short distance above Cosby's old ford, between Washington and Nelson counties. Said dam is not to exceed two and a half feet above low water mark; and it shall be the duty of said Crume to build a slope on said dam for the space of fifty feet, at a suitable place in the current, which slope shall be six feet in length for every foot of the dam in height.

Approved January 9, 1852.

CHAPTER 408.

AN ACT allowing Public Arms to the Kentucky Military Institute, and Western Military Institute.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the governor of the commonwealth to issue his order to the quartermaster general, on the application of the superintendent of the Kentucky military institute, or the superintendent of the western military institute, for any number of public arms and accoutrements, equal to the number of cadets expected to be scholars in said institute during the year in which such application is made, and, also, for one piece ordnance for each institute: *Provided, however,* that before the order shall be issued by the governor, a bond with good security, in a penalty equal to the full value of such arms and ordnance, shall be first executed to the commonwealth, and filed with the quartermaster general, and approved by the governor, conditioned to keep and preserve said arms and accoutrements and ordnance in good order and condition, and return the same, at such time as the quartermaster general may direct, to the public arsenal, in like good order and condition, and also conditioned that such arms and accoutrements and ordnance shall not be used for any purpose or purposes whatever except on guard mounting and

Use of arms
granted; bond
required.

Quartermaster
has control.

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visitors.

parades at the institute, or elsewhere, and in the exercise and discipline of the institute.

§ 2. That it shall be the duty of the board of visitors, at each and every meeting, to examine specially into the condition and situation of the public arms at such institute, and, at each meeting, report to the governor the condition of such public arms, and the way and manner the same are kept, and whether any of them have been lost or destroyed, or whether the same are kept securely; and if, at any time, the board of visitors shall report that public arms are improperly used, or are not well and safely kept, it shall be the duty of the governor to order the return of such arms and accoutrements to the public arsenal; and if the order is not complied with, it shall be the duty of the attorney general to institute suit on the bond for the failure to return such arms and accoutrements, or failure to account therefor, which suit shall be brought in the general court to be held by the judge of the Franklin circuit court.

Approved January 9, 1852.

CHAPTER 409.

AN ACT changing the time of holding the Quarterly Terms of the County Judge of Wayne.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, hereafter, the presiding judge of Wayne county shall hold his quarterly terms in the months of March, June, September, and December, instead of the months of February, May, August, and November, as now provided for by law.

§ 2. That the presiding judge of said county may fix, by an order of the Wayne county court, the time in said months of March, June, September, and December, as he in his discretion may think proper, for the holding of said quarterly terms; and that all suits upon which process have been issued and executed according to law, and made returnable to the February term, 1852, shall be triable at such term in said month of March as may be fixed on for the regular term of said court.

Approved January 9, 1852.

CHAPTER 410.

AN ACT giving additional powers to the Trustees of Richmond.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the trustees of the town of Richmond shall have power and authority to cause the side-walks in said town to be curbed and paved as they may direct, the cost of which may be apportioned and assessed against the owners of said lots fronting said side-walks.

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§ 2. That at the next annual election of trustees of said town, the officers conducting said election shall direct a vote to be taken of the citizens of said town on the propriety of taxing the property holders in said town an amount not exceeding one thousand dollars, to be applied toward purchasing, in behalf of said town, an interest in the proceeds of the Richmond cemetery company; and if a majority of all those citizens authorized to vote, shall vote in the affirmative, then the trustees shall have power and authority to assess an *ad valorem* tax, not to exceed three hundred and thirty-three dollars and thirty-three cents annually, for three successive years, after said election, upon the property of the citizens of said town, and subject by law to town tax, to be appropriated to said purpose. Notice of said election shall be published for two weeks before the day thereof, in the newspaper printed in said town of Richmond.

Approved January 9, 1852.

CHAPTER 411.

AN AOT to increase the powers of the Marshal of New Liberty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marshal of New Liberty, in Owen county, shall have the same power and authority which constables of Owen county have in all matters relating to offenses against the criminal and penal laws, and he shall further have power to serve process in civil cases, and perform all other duties of a constable, in matters arising against persons residing or staying in the town.

Approved January 9, 1852.

CHAPTER 412.

AN AOT to charter the Mountsterling and Paris Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Peter Everette, A. W. Hamilton, B. J. Peters, R. Apperson, T. F. Hazlerigg, Jas. Howard, William Ferguson, William T. Darnell, Horace Benton, John Clay, Daniel Priest, Samuel G. Green, and James M. Stone, of Montgomery county, John Jay Anderson, George W. Williams, Garret Davis, Benjamin F. Harris, Charlton Alexander, Nathan G. Darnall, and Robert M. Barnes, of the county of Bourbon, he and they are hereby appointed commissioners, under the direction of any three or more of whom, in their respective counties, subscriptions may be received to the capital stock of the Mountsterling and Paris railroad company hereby incorporated; and they, or any three of them, may cause books to be opened at such

Commissioners.

Opening of
books.

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times and places, in their respective counties, as they may direct, for the purpose of receiving subscriptions to the capital stock of said company, after giving due notice of the time and places of opening said books. The books may be continued open as long as deemed proper.

Capital stock.

§ 2. The capital stock of said company shall be two hundred and fifty thousand dollars, to be increased if necessary, to complete or furnish the road with lands, depots, cars, or other things necessary to carry on the business of said company; said stock to be divided into shares of fifty dollars each, and shall be personalty.

Election of president.

§ 3. So soon as fifty thousand dollars shall have been subscribed to said capital stock, the said commissioners shall advertise an election for a president and five directors to manage the affairs of said company; and at such an election two of said commissioners shall attend and conduct the same; and each stockholder shall have one vote for each share of stock owned, and may vote by proxy; and the persons having the highest number of votes shall be elected, and notified thereof. They shall take an oath before some one authorized by law to administer oaths, faithfully to discharge the duties of their offices, respectively. They shall hold their offices for one year, and until their successors are elected and qualified, and shall have power to fill all vacancies in their board, appoint a treasurer, secretary, engineers, and other agents necessary to effect the object of this act.

Powers of president and directors.

§ 4. The president and directors, in order to enable them to locate, construct, finish, and furnish said road, and manage the same after its completion, have and they and their successors are hereby invested with all the powers, rights, and privileges granted to the Maysville and Lexington railroad company, in the act incorporating said company, approved March 4, 1850; and they shall, in all things appertaining to the survey, location, damages, releases, dividends, rates of toll, and all other general provisions of said act, be regulated and governed by the same.

Corporate powers.

§ 5. Said company shall be a body corporate, with perpetual succession, with powers to sue and be sued, contract and be contracted with, to have and use a corporate seal, by the name aforesaid, and for the purpose of constructing a railroad from Mountsterling to Paris, by the most practicable route, and maintaining it with all necessary machinery, depots, and other necessary appendages.

Counties may subscribe stock.

§ 6. It shall be lawful for the county courts of both or either of the counties through which said railroad shall pass to subscribe stock in said road: *Provided*, that such county shall first give reasonable notice of the time of an election to be held by the qualified voters therein, and of the amount proposed to be subscribed, and a majority of

all the qualified voters in such county shall vote for a tax sufficient to pay the amount proposed to be subscribed.

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§ 7. Should said tax be voted for, and the stock taken by the county court, the latter shall have power to appoint a collector, on such terms as may be by them agreed upon, who shall execute bond, take an oath faithfully to perform his duty, and be governed by the laws in force for the collection of the state revenue. The net proceeds of stock thus taken shall go to decrease the county levy.

§ 8. The right is reserved to the legislature to change, alter, or amend the privileges herein granted.

Approved January 9, 1852.

CHAPTER 413.

AN ACT to incorporate the Danville, Somerset, and Knoxville Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all persons who shall become stockholders, pursuant to this act, shall be and are hereby made a body corporate, under the name of "the Danville, Somerset, and Knoxville railroad company," with power to construct and maintain a railway, with a double or single track, with such appendages as may be deemed necessary for the convenient use of the same, commencing at any eligible point in or near the town of Danville, in Boyle county, Kentucky; thence the most practicable route, passing through or near Somerset, in Pulaski county, to the Tennessee line, in the direction to Knoxville, in Tennessee.

Style of corporation.

§ 2. The capital stock of said company shall be one million of dollars, to be increased if necessary to complete the road, which capital shall be divided into shares of fifty dollars each, and be deemed personal property.

Capital stock.

§ 3. That William Fox, John G. Lair, C. Wait, W. P. Ingram, John S. Kendrick, Jenkins Vickers, Horace Withers, A. J. James, and R. Gossett, of Pulaski county; Thomas Helm, A. G. Huffman, R. Carson, Hardin Weatherford, William Tate, and Joseph Cooper, of Lincoln county; James Barbour, J. T. Boyle, Joshua F. Bell, F. T. Fox, Jas. Kinnaird, A. I. Caldwell, Thomas Mitchell, J. P. Mitchell, and W. C. Anderson, of Boyle county, shall be commissioners for receiving subscriptions to the capital stock of the corporation, agreeably to the provisions of this act.

Commissioners.

§ 4. It shall be the duty of said commissioners, or any three of them, within two years after the passage of this act, to give notice in the Danville Tribune, the Somerset Gazette, and Garrard Banner, and such other newspapers as may be deemed proper, once a week for three weeks in succession, of the time and place of opening books for the

Commissioners' duties.

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subscription of said stock; and they shall open books at all such places as they may deem fit; at each of all places specified, one or more of said commissioners shall attend on the day fixed, and for three or more days successively, and for the space of six hours of each day shall continue to receive subscriptions to the capital stock of said company, from all persons or companies who will subscribe thereto, in conformity with the provisions of this act.

§ 5. Each subscriber, at the time he subscribes, shall pay to said commissioners, or their agents appointed to receive such subscription, either in money or a note, negotiable and payable at some bank in sixty days after date, or longer, at the option of said commissioners or their agents, the sum of two dollars on every share subscribed by him; and the residue thereof shall be paid in such installments and at such times as may be required by the president and directors of said company.

When books
to be closed.

§ 6. If, at the expiration of the time mentioned in the fourth section of this act, (viz: three days,) it shall appear that fifty thousand dollars or more shall have been subscribed to the capital stock of the corporation, or as soon thereafter as fifty thousand dollars or upwards shall have been subscribed to the capital stock of said corporation, the books shall be closed.

Election of di-
rectors.

§ 7. As soon as may be after closing the books, the commissioners shall give notice of the time and place at which a meeting of the stockholders will be held for the choice of directors; said notice shall be published in one or more papers of general circulation as may be along the line of said road. At the time and place appointed for such election, the commissioners, or three or more of them, shall attend and lay the subscription books before the subscribers, or a majority of them then present; and thereupon the said subscribers, or a majority of them then present, in person or by proxy, shall, from among the stockholders, elect six directors, by ballot, to manage the affairs of the company; and these six directors, or a majority of them, shall have the power of electing a president of said company, either from among the directors or any other stockholder, and of allowing him such compensation for his services as they may deem proper; and that in said election, and on all other occasions whereon a vote of the stockholders of said company is to be taken, each stockholder shall be allowed one vote for every share owned by him, her, or it; and every stockholder may, in writing, depute any other person to vote for him, her, or it, as his, her, or its proxy; and the commissioners aforesaid, or any three or more of them, shall be judges of the said first election of directors. All subsequent elections shall be conducted in the manner prescribed by the by-laws of said corporation.

§ 8. In all elections by the stockholders, a majority of the shares voted shall determine the choice.

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§ 9. The directors shall hold their offices for one year, and until others shall be elected in their stead; they shall appoint a president, as directed in section seven, and some suitable person as secretary of the corporation; they shall, moreover, appoint all such officers and agents as the convenience of the company may require.

§ 10. That sections 10, 11, 12, 13, 14, 15, 17, 19, 20, 22, 23, 24, and 26 of an act, entitled, an act to incorporate the Lexington and Maysville railroad company, approved March 4, 1850, be adopted as a part of this act, and be of the same force as if here re-enacted.

§ 11. That a general meeting of the stockholders of said company may be called at any time during the interval between the annual meetings, by the president and directors, or a majority of them, or by the stockholders owning at least one-fourth of the whole stock subscribed, upon giving public notice of thirty days of the time and place of holding the same, which shall be at some place in Somerset, named in the advertisement; and when any such meetings are called by the stockholders, said notice shall specify the particular object of the call; and if, at any of such called meeting, a majority (in value) of the stockholders of said company are not present, in person or by proxy, such meeting shall be adjourned from day to day, without transacting any business, for any time not exceeding three days; and if, within said three days, stockholders having a majority (in value) of the stock subscribed do not then attend, said meeting shall be dissolved.

Meeting of the stockholders.

§ 12. That the said Danville, Somerset, and Knoxville railroad company, shall have perpetual succession of members; may have a common seal, may sue and be sued, plead and be impleaded, in any court of law or equity; and the president and directors thereof may make all such rules, regulations, and by-laws as are necessary or proper for the government of the corporation, or effecting the object for which it is created: *Provided*, such rules, regulations, and by-laws shall not be repugnant to the constitution and laws of this state or of the United States; and said president and directors shall let out all contracts for the construction of said road, and for the purchase of materials; cars, engines, &c., and for the erection of all necessary and convenient buildings.

Corporate power.

§ 13. That the towns of Danville, Stanford, Crab Orchard, and Somerset, and the counties of Boyle, Lincoln, Pulaski, Rockcastle, Laurel, Knox, Whitley, and Wayne, or any other town, city, county, or corporation, be and they are hereby permitted to hold stock in the corporation created by this act, upon the same terms, on the same conditions, and subject to the same restrictions with other

Counties permitted to hold stock.

1852.

stockholders: *Provided*, the amount by said several cities, towns, counties, and corporations, separately subscribed, shall not in any single instance exceed the following sums: by Danville, twenty thousand dollars; by Stanford, ten thousand dollars; by Crab Orchard, ten thousand dollars; by Somerset, twenty thousand dollars; by Boyle county, fifty thousand dollars; by Lincoln, fifty thousand dollars; by Pulaski, fifty thousand dollars; by Rockcastle, twenty thousand dollars; by Laurel county, twenty thousand dollars; by Knox, twenty thousand dollars; by Whitley, twenty thousand dollars; by Wayne, twenty-five thousand dollars; and by any other city or county, a sum not exceeding twenty-five thousand dollars; and it shall be lawful for the presiding judges and trustees of said towns and counties, or either of them, after giving six weeks notice thereof in the papers printed in Somerset and Danville, or one of them, upon a day named in said advertisement, to take the sense of the qualified voters of said towns, cities, and counties, or any one or more of them, as to the policy of said towns, cities, and counties, or any one or more of them, becoming subscribers to the stock of said railroad company, to any amount which may have been proposed in said printed notice, not exceeding the respective sums above specified; and it shall be the duty of the trustees of the towns above named, and of the county courts of the several counties, upon the day named in said printed notice, to open columns in the various precincts of said towns, cities, and counties, and take all necessary measures for ascertaining correctly the sense of the qualified voters of any of said cities, towns, and counties, at the polls thereof, as aforesaid; and, provided a majority of all the qualified voters of any of said cities, towns, or counties, who shall have cast their votes at said election, shall be in favor of said several subscriptions of stock as proposed to such city, town, or county, it shall be the duty of such city, by its proper authority, and the trustees of such town, to pass an ordinance directing some person of their body, of every such city or town, to subscribe for any amount of stock provided for in said ordinance, not exceeding the sum specified in such printed notice; and it shall be the duty of the presiding judge of the county court of every such county, in like manner, to empower and direct the clerk of such court to subscribe for the amount of stock authorized by the voters of said county, not exceeding the sum specified in said printed notice; and it shall be lawful for such cities, towns, and counties, so authorizing subscriptions to the capital stock of said company, to raise the amount of their separate subscriptions, as the same shall be called by the president and directors of said road, by a tax on the real and personal estate of the said several cities, towns, and counties subscribing, or by borrowing the amount thereof, payable in

Duty of presiding judge.

the way and on the terms the said several mayors and councils, trustees of towns, and the said several county courts may deem most advisable; and the interest on all such sums borrowed may be provided for in such manner as to them seems best: *Provided*, that all taxes laid by any city, town, or county, to pay the principal and interest, or either, of the amounts borrowed by them, shall be pledged and sacredly appropriated to such purpose, and no other: *And provided*, that all sums paid by any citizen of said cities, town, or counties, on account of the several subscriptions of any city or county, or in payment of the interest upon any such subscription, shall entitle him or her to a certificate for the amount thereof; and, when said certificates amount to fifty dollars, shall entitle him to one share in the stock subscribed by said city, town, or county, for every fifty dollars so held by him or her.

1852.

§ 14. That if it should appear, upon actual survey, that a nearer, better, and cheaper route can be had, in the direction to Knoxville, Tennessee, than to run the contemplated railroad to or near the town of Somerset, that it shall be in the power of the stockholders, by a vote in the manner provided for in this act, to locate the said road within ten miles east of said town of Somerset, and also to provide for a branch from some point on the same to said town, under the same regulations as is provided for the main stem of said road by this charter.

May not pass
through Somerset.

Approved January 9, 1852.

CHAPTER 414.

AN ACT for the benefit of Milton Johnson, and others.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act, entitled, an act to incorporate the Sardis turnpike road company, approved the 22d day of March, 1851, as compels Milton Johnson and George Riley, and those living with them, or on their farms, as tenants or otherwise, or all those who may hereafter live thereon, to pay the road tax respectively assessed against them in the county of Mason, to the president and directors of the Sardis turnpike road company, be and the same is hereby repealed; and that all such road tax as may hereafter be assessed against or upon the property of said Johnson or Riley, or those living with them or on their farms, as tenants or otherwise, or who may hereafter reside thereon, be paid in the manner and to the persons now provided by law for working the public road in said county.

Approved January 9, 1852.

1852.

CHAPTER 415.

AN ACT to amend the charter of the city of Augusta.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the city of Augusta be so amended as to give to and confer upon any justice of the peace living within the corporation limits of said city, the same powers and jurisdiction, in the trial of all and every person or persons for a breach of the ordinances of said city, as is now conferred upon the mayor thereof; and he is directed and authorized to issue process, directed to the marshal of said city, as said charter now provides for the mayor; and said city marshal shall execute and return process emanating from said justice, in the same manner and under like penalties as if issued by the mayor of said city.

Approved January 9, 1852.

CHAPTER 416.

AN ACT to authorize the appointment of persons to serve process in the Justice's Court of the city of Louisville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That in the event of the disability, from sickness, or from any other cause, of any constable in the city of Louisville to discharge his ministerial duties, or if the public necessities require it, the county court shall have power to authorize, by warrant, some fit person to perform all the duties and acts which might be performed by such constable, who shall be recommended by such constable and appointed by the court; and said constable shall be responsible upon his official bond, for the official neglect or misconduct of such officer.

Approved January 9, 1852.

CHAPTER 417.

AN ACT to incorporate the town of Sharpsburg.

Trustees; election.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, hereafter, the prudential, fiscal, and municipal concerns of the town of Sharpsburg shall be vested in five trustees, who shall be elected annually on the first Monday in June, in the same manner, and by the same qualified voters in the town of Sharpsburg, that the trustees of the town of Mountsterling are required to be in that town, by an act of this general assembly, approved 12th of March, 1851.

Their powers.

§ 2. That all the powers vested in the trustees of Mountsterling, by the before recited act, are hereby, as to

the town of Sharpsburg, vested in said trustees of Sharpsburg; and that all and singular the provisions of said act are hereby adopted for and made applicable to the town of Sharpsburg, as if fully copied and here reiterated, excepting that neither the trustees of Sharpsburg nor any other authority shall license any nine pin or ten pin alley in or near said town, and provided, that for all licenses to taverns or at other houses of entertainment, the same tax shall be accounted for to the commonwealth that are collectable by the general laws in force on that subject.

1852.

§ 3. From and after the passage of this act, the present trustees of the town of Sharpsburg shall have and exercise all the powers and authority of this act conferred on the trustees of said town, until the election in June, and may appoint a marshal, to hold his office until his successor shall be appointed by the trustees to be elected in June.

Election, when to be held.

Approved January 9, 1852.

CHAPTER 418.

AN AOT to change the time of holding the Quarterly Courts for the county of Bath.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That so much of an act to amend an act, entitled, an act to organize county courts in the several counties, approved March 11, 1851, as requires the presiding judge to hold his quarterly courts for the county of Bath on the second Monday in March, June, September, and December, be and the same is hereby repealed.

§ 2. That, hereafter, the presiding judge of Bath county shall hold his quarterly courts on the Tuesday next after the second Monday in the months of February, May, August, and November, and continued until the business thereof be completed.

Approved January 9, 1852.

CHAPTER 419.

AN AOT to incorporate the New Orleans and Ohio Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That James Campbell, D. Watts, William Smedley, A. Rankin, John W. Crockett, L. M. Flournoy, S. H. Glenn, D. A. Given, H. M. Browne, Henry Enders, James Larmon, William F. Norton, James Langstaffe, John W. Jones, and S. F. Singleton, with such others as shall associate with them for that purpose, are constituted a body politic and corporate, by the name of the New Orleans and Ohio railroad company; and, by that name, to sue and be sued, plead and be impleaded, in any court of this state;

Corporate name and powers.

1852.

Authorized to
construct road.

Description of
road.

May unite with
any other com-
pany.

Capital stock.

Books to be
opened.

to make and have a common seal, and the same break, alter, and renew at pleasure; and this company is hereby vested with all powers, privileges, and immunities which are or may be necessary to carry into effect the purposes and objects of this act, hereinafter set forth; and said company is hereby authorized and empowered to locate, construct, and finally complete a single, double, or treble railroad or way from some suitable point in the town of Paducah, in a south, southeasterly, or southwesterly direction to the south line of this state, on such route as shall be deemed best and most expedient; and transport, take, and carry property and persons upon said railroad or way, by the power and force of steam, of animals, or of any other mechanical or other power, or any combination of them which said company may choose to apply; and for the purpose of constructing said railroad or way, the said company is hereby authorized to lay out the road, not exceeding one hundred feet wide, through the whole length; and for the purpose of depots, cuttings, and embankments, and for the purpose of necessary turnouts, and for obtaining stone and gravel, may take as much more land as may be necessary for the construction and security of said road, with permission to make any lawful contract with any other railroad corporation in relation to the business of said company, and also to make joint stock with any other railroad corporation: *Provided*, that all damages that may be occasioned to any person or corporation by taking of any such land or materials aforesaid, for the purpose aforesaid, shall be paid for by said company in the manner hereinafter provided.

§ 2. That the capital stock of said company shall not exceed one million of dollars, to be divided into shares of fifty dollars each, which shares shall be deemed personal property, and may be transferred in such manner and at such places as the by-laws of said company shall direct: *Provided*, that said company may commence the construction of said road with all the powers and privileges contained in this act, whenever the sum subscribed to the capital stock shall exceed two hundred and fifty thousand dollars.

§ 3. That the persons named in the first section of this act, or a majority of them, shall open books to receive subscriptions to the capital stock of said company, at such times and places as they or a majority of them may appoint, and shall give such notice of the time and place of opening said books as they may deem reasonable, and shall receive said subscription under such regulations as they may adopt for the purpose; and if more than five thousand shares of stock shall be taken or subscribed, they shall have the power to make the shares, as subscribed, the capital stock of said company: *Provided*, they shall not exceed twenty thousand shares; and in case the subscription

should exceed twenty thousand shares, the same shall be reduced and apportioned in such manner as may be deemed most beneficial to the corporation.

§ 4. That the immediate government and direction of the affairs of said company, shall be vested in a board of directors, to consist of twelve persons, who shall be shareholders, who shall be chosen by the stockholders of said company in the manner hereinafter provided, and shall hold their offices until others are duly elected and qualified to take their places as directors; and the said directors, seven of whom, the president being one, shall be a quorum for the transaction of business, shall elect one of their number to be president of the board, who shall also be president of said company; they shall also choose a secretary, and such other officers as they may deem necessary, and a treasurer, who shall give bond with security to said company, in such sum as the directors may require, for the faithful performance of his trust.

§ 5. That the persons authorized by the third section of this act to open the books for subscription to the capital stock, are hereby authorized, after the books of subscription to the capital stock of said company are closed, or when the sum subscribed shall exceed two hundred and fifty thousand dollars, to call the first meeting of the stockholders of said company, in such way and at such time and place as they may appoint, for the choice of directors of said company; and in all meetings of the stockholders of said company, each share shall entitle the holder thereof to one vote, which vote may be given by said stockholder in person or by lawful proxy; and the annual meeting of the stockholders of said company, for the choice of directors, shall be holden at such time and place and upon such notice as the said company, in their by-laws, may provide.

§ 6. That in case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, said company shall not for that cause be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company; and said directors shall have power to fill any vacancy which may occur by death, resignation, or otherwise.

§ 7. That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects of said company, not contrary to this charter or the laws of this state or of the United States; the transfer of shares, the duties and conduct of their offices and servants, touching the election of and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company; said company is also here-

1852.

Directors, their powers and duties.

May elect other officers.

Organisation.

When election of directors to be held.

Vacancies how filled.

Duties of directors.

1852.

May hold real
estate, and ob-
tain right of way

by authorized to purchase, receive, and hold such estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted; and may, by their agents, surveyors, engineers, and servants, enter upon all lands and tenements through which they may deem it necessary to make said road, and to survey, lay out, and construct the same; and to agree and contract for the land or right of way with the owners through which they may intend to make said road. In case said lands belong to the estate of any deceased person, then with the executor or administrator of such; or in case of the same belonging to a minor or person *non compos mentis*, then with his or her guardian or guardians; or in case said lands be held by trustees of school sections, or other trustees of estates, then with such trustees; and the said executors, administrators, guardians, and trustees are hereby declared competent, for such estate or minor, to contract with said company for the right to use, occupy, and possess the lands of such estates, minors, or trustees, so far as may be useful or necessary to the purpose of said railroad; and the act and deed of such executors, administrators, guardians and trustees in relation thereto, shall pass the title in said land in the same manner as if said deed or act was made or done by a legal owner of full age; and such executor, administrator, guardian, or trustee shall account to those interested, upon their respective bonds, for the amount paid him in pursuance of such agreement and compensation; and if the said company and parties representing lands prefer, they may refer the question of compensation to arbitrators mutually chosen, whose award, or that of their umpire in case of disagreement, shall vest title according to its terms.

Condemnation
of land.

§ 8. That if the said company cannot agree with the owner of the land through which they may desire the road to pass, or with the executor, administrator, guardian, or trustee, it shall and may be lawful for the clerk of the circuit court of the county in which said land lies, on application of said company, or its agents, and he is required to issue a writ of *ad quod damnum*, commanding the sheriff that without delay he cause a jury of six good and lawful men to be upon such land on a day to be by said sheriff fixed and appointed, and whereof it shall be his duty to give notice to the owner, executor, administrator, guardian, or trustee, at least five days before such day, if they be within his county, or if not, or if the owner or owners be unknown, then notice shall be given by advertisement, to be by said sheriff posted and fixed on the dwelling house, if such there be, or in a public or conspicuous place at least five days before such appointed day, and also by advertising the same in some newspaper published nearest the land, at least three weeks, by weekly insertions, prior to

1830:

said day, and then cause said jury, after being duly sworn by said sheriff or justice of the peace, to make true inquest of the damage that will be sustained by such owner or estate, by reason of making such road through such land. If any such juror shall fail to appear, or, by reason of challenge for cause or otherwise, fail to sit on such inquest, the said sheriff shall fill said jury from the by-standers; and if they fail to render a verdict, the said sheriff shall again, on the same or a subsequent day, impannel a new jury or jurors, until a verdict be had; such verdict and inquest, regularly certified by such sheriff, shall be returned to the office of the clerk of the circuit court of the county in which said land may be, and there remain among the records; and such verdict shall vest in said company the right to occupy and use such land for the purposes of said railroad, on the payment or tender of payment of the damages thereon assessed against said company; and in case of persons absent or unknown, as aforesaid, the placing of the amount of damages to the credit of the owner, in the hands of the clerk of the county court for the county in which such lands may lie, shall be deemed and taken as payment; and such clerks shall be liable on their bonds to make due payment of said money on demand.

§ 9. That it shall be the duty of the sheriff to appoint and hold said inquest within ten days after the receipt of said writ of *ad quod damnum*, except in cases of absence aforesaid, in which case thirty days shall be allowed him, and five days in addition are allowed him for every additional jury which he may have under said writ; and for every default therein, the said sheriff shall be fined by the circuit court, at the instance of either party, not less than twenty nor more than one hundred dollars; and every juror and witness summoned shall be fined not less than ten dollars for non-attendance; of all such fines, as well as costs, the circuit court of the county shall have jurisdiction. There shall be allowed the following fees to the clerk of the circuit court: for every writ of *ad quod damnum*, seventy-five cents; for receiving and filing inquest, seventy-five cents; to the sheriff, for giving notice, seventy-five cents, beside printer's fees, not exceeding two dollars in each case; for holding inquest, five dollars, and for summoning witnesses, twenty-five cents, each; to jurors, seventy-five cents per diem, each; which fees are not allowed until a verdict be returned and filed, and shall be taxed in the bill of costs, and paid by the company: *Provided, however*, that before the application for said writ, the said company may make a tender to the owner or owners of any such land a sum of money by them deemed equivalent to the damage to be sustained; and upon refusal to accept the sum tendered, and a verdict for the same amount, or a less sum, the costs shall

Duty of sheriff
in condemning
land.

Fees.

1852: be taxed to and paid by the owners of the land upon which inquest is held.

Company may
erect depots, &c

§ 10. That said company is hereby authorized to construct, erect, build, and use a single, double, or treble railroad or way, of suitable width and dimensions, to be determined by the directors of said company, on the line or course by them designated, and, also, under the same rules, and regulations, and restrictions, and with the like privileges and immunities as are herein granted to the main railroad, to build and construct branch railroads on either side of the main road, not exceeding forty miles; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken, and carried on the same; and shall have power to erect and maintain toll-houses and other buildings for the accommodation of their concerns, as they may deem suitable for their interest.

Branch roads.

Rates of tolls.

§ 11. That it shall be lawful for the company hereby incorporated, from time to time, to fix, regulate, and receive the toll and charges by them to be received for transportation of persons or property on their railroad or way aforesaid, hereby authorized to be constructed, erected, built, or used, or upon any part thereof: *Provided*, that the rates of toll or charges for transportation on said road shall not exceed the rates limited in the charter of the Lexington and Frankfort railroad.

Penalties for
obstructing road

§ 12. That if any person or persons will or shall willfully do, or cause to be done, any act or acts whatsoever whereby any building, construction, or works of said company, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons, so offending, shall be deemed guilty of a misdemeanor, and shall forfeit and pay to said company double the amount of damages sustained by reason of such offenses or injury, to be recovered in the name of said corporation, with costs of suit, by action of debt.

Calls on stock.

Delinquent
stock.

§ 13. That the directors of said company may require the payment of the sum or sums subscribed to the capital stock of said company, at such times, and in such proportions, and upon such conditions as they may deem fit; and in case any stockholder shall refuse or neglect to make payment, pursuant to the requisition of the board of directors, the stock of such stockholder may be sold by the directors of said corporation, at public auction, after the lapse of ninety days from the time when the payment became due; and the surplus money, the avails of such sale, after deducting the payments due, and interest thereupon, and the necessary expenses of sale, shall be paid over to such delinquent stockholder.

§ 14. That the property owned by said company shall at

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all times be subject to taxation, in the same manner and to the same extent as similar property owned by private individuals.

1852.

Property to be taxed.

§ 15. That if the said railroad shall not be commenced within five years from the passage of this act, and shall not be finished within this state in ten years from the time of the commencement thereof, then this act shall be null and void.

When charter to be void.

§ 16. That the legislature reserves the power to amend or alter this charter.

Power to amend reserved.

Approved January 9, 1852.

CHAPTER 420.

AN ACT for the benefit of the Sheriff of Mason county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of Mason county be and he is hereby allowed until the first day of June next to return his delinquent lists of revenue tax and of county levy for the year 1847 and intermediate years to the year 1851; and such returns as he may have made since the first day of June, 1850, be and the same are hereby legalized and allowed: *Provided,* that the sureties of said sheriff consent, in writing, to be by them signed and filed in the office of the county court of Mason, to the indulgence granted in and by this act to their principal; and that this act shall in no wise authorize or be so construed as to give or confer the right upon said sheriff to withdraw any money from the treasury which may have been paid thereto for or on account of persons who proved to be delinquent.

Approved January 9, 1852.

CHAPTER 421.

AN ACT to change the line of Clay and Harlan counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the lines between the counties of Clay and Harlan be changed as follows, to-wit: beginning at the lower end of Alexander Whitehead's farm, at the mouth of Gabe's hollow, at the Clay and Harlan county line; thence a straight line to intersect the Clay and Harlan county lines, to the top of the Kentucky ridge, at the head of the Rocky hollow of the Mile branch; and that all that part of Clay county, included in this boundary, be and the same is hereby added to the county of Harlan.

Approved January 9, 1852.

1852.

CHAPTER 422.

AN ACT to incorporate the Pikeville Turnpike Road Company.

Style of corporation.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company is hereby incorporated, by the name and style of the Pikeville turnpike road company, for the purpose of making a road, commencing at the Floyd county line, on the bank of Big Sandy river; thence to Pikeville; thence to intersect the Virginia turnpike road, by the way of the mouth of Card.

Capital stock.

§ 2. That the capital stock of said company shall be twenty thousand dollars, divided into shares of fifty dollars each; and books for the subscription of stock shall be opened on the first Monday in March next, at Pikeville, under the direction of Calbert Cecil, Wm. Cecil, John N. Richardson, John Dils, and George N. Brown, who are hereby appointed commissioners:

Books to be opened.

§ 3. That the foregoing commissioners may cause books to be opened at such other places as they deem advisable, and may appoint the commissioners for each place.

§ 4. That whenever fifteen hundred dollars of the capital stock shall be subscribed, the company may be organized by the election of a president and five directors.

§ 5. That the provisions of the 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23d, 24th, 25th, 26th, 27th, 28th, 29th, and 30th sections of an act, entitled, an act to incorporate the Carlisle and Sharpsburg turnpike company, approved February 26, 1847, be adopted and made part of this act.

§ 6. That it shall and may be lawful for the Pike county court to take the sense of the people of said county, on the first Monday in August next, as to the propriety of said county levying a tax of ten cents on each one hundred dollars worth of the taxable property of said county, for the purpose of constructing said road. If a majority of the votes cast be in favor of said subscription, the county judge shall make the subscription.

Approved January 9, 1852.

CHAPTER 423.

AN ACT to authorize the sale of the Methodist Parsonage in Salvisa, in Mercer county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for John J. Jones, George W. Davis, and Alfred Gibson, or any two of them, acting as agents or trustees for the Methodist Episcopal Church, south, in Salvisa circuit, to sell and convey the house and lot in the town of Salvisa, known by the name of the Methodist parsonage, and, out of the proceeds, to pay all debts and liens against said property, and to re-in-

vest or dispose of the balance as the quarterly conference of Salvisa circuit may direct.

1852.

Approved January 9, 1852.

CHAPTER 424.

AN ACT to incorporate the German Protestant Orphan Asylum Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Messrs. Jean Westermann, M. Billing, John C. Petry, Dr. E. Caspari, Wm. Kriel, Otto Schoeffer, and A. C. Harig, chosen trustees of the German protestant orphan asylum society, and their successors in office, be hereby authorized and empowered to hold, for the benevolent purposes of the society, all real and personal estate pertaining to said orphan asylum society, and devoted to the benevolent use of charity to orphan and other destitute children; and it shall be lawful for the said trustees, and their successors, to have their names recorded in the clerk's office of the county court of Jefferson county; and when their names be deposited with the said clerk to be recorded, the said trustees shall be authorized to receive, on behalf of said society, any real or personal estate, or money, by gift, grant, purchase, or devise, and hold the same subject to the control of the said society, in the charitable object of care of orphan and destitute children; and when a vacancy shall happen among the said trustees, the society shall have the power, at any time, to fill such vacancy, as the case may require, according to the constitution of the society; and the name of the person or persons, so nominated, shall be deposited with the clerk of said county court, to be recorded as aforesaid; and the person or persons, so nominated, shall from that date be and are hereby declared to be trustees of the said asylum.

Style of corporation.

§ 2. That the institution called the German protestant orphan asylum society, of the city of Louisville, shall deposit for record, as aforesaid, with the clerk of said court, their constitution or articles of association, which shall be recorded by him in his office; and said articles, so recorded, shall remain permanent, subject only to the modes of amendment therein expressed: *Provided*, nothing therein contained shall be inconsistent with the constitution and laws of the land; and when the articles aforesaid shall be so recorded, it shall be lawful for the county court of Jefferson county, or the police court of the city of Louisville, to bind such poor orphans or other children to said trustees, in the same manner as they now, by law, may bind such children to individuals; and said trustees, with the approbation of said police court, may bind any such children as may be in their charge, apprentices to such fit and discreet person as they choose.

Articles to be recorded.

1852.

Power to sell
property.

§ 3. That the said trustees shall be authorized to sell and convey any estate held as aforesaid, when it shall be so ordered by the said society, and to invest the proceeds of such sale in other property to be selected by the society, for the said benevolent purposes.

§ 4. The general assembly hereby reserves the right to alter, amend, or repeal this charter.

Approved January 9, 1852.

CHAPTER 425.

AN ACT for the benefit of the Fleming County Court.

County court
clerk to be clerk
quarterly court.

Records.

His fees.

Compensation
presiding judge.How suits to
be conducted.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the passage of this act, the clerk of the county court of Fleming county shall be and is hereby constituted the clerk of the quarterly terms directed to be held, by existing laws, by the presiding judge of said court. That the records and proceedings of said quarterly terms of said presiding judge shall be kept by said clerk, and all process issued by him in manner and form as the same are now directed by law to be recorded and issued by the presiding judge of the county courts of this commonwealth; and said clerk shall receive the same fees which, by law, are allowed to the presiding judges of the county courts for like services.

§ 2. That the county court of Fleming county is hereby empowered and directed to levy a tax of one cent *ad valorem* on each one hundred dollars of taxable property in said county, annually, to be collected as the revenue and taxes are now, by law, directed to be collected, and that the same be appropriated to the presiding judge of said court, as a compensation for his services in holding the county and quarterly courts now, by law, directed to be held by the presiding judges of the several county courts of this commonwealth.

§ 3. That all suits instituted in said court, and the pleadings therein, shall be conducted in manner and form as provided by the act organizing county courts in the several counties.

§ 4. That the provisions of this act shall extend only to the county of Fleming.

Approved January 9, 1852.

CHAPTER 426.

AN ACT to establish an additional Justices' District, No. 7, in McCracken county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That an additional magistrates' and constable District No. 7

ble's district, No. 7, in McCracken county, with an election precinct, be and the same is hereby established, to be made out of district No. 1, or the Paducah district.

1852.

§ 2. That James B. Husbands, William F. Norton, and John Milliken are hereby constituted commissioners; any two of whom may act, to lay off and report a plan and accurate boundary of said district to the McCracken county court, on or before the March term thereof for 1852; whereupon said court shall order the same to be recorded; and it shall be the duty of the clerk of said court to transmit a copy of said report to the secretary of state, to be by him filed in his office with the previous report of the commissioners of McCracken county.

Commissioners;
their duties.

§ 3. That after said district is formed, if it shall appear that there is not the constitutional number of magistrates and a constable in either or both of said districts, above referred to, an election shall be held for such officers in such district or districts, on the first Monday in May, 1852, so as to comply with the constitutional provision concerning the number of justices of the peace and constables for such districts, for which purpose it shall be the duty of the McCracken county court to issue writs of election on or before the April term of said court, in the same manner that writs of election are now required to be issued to fill vacancies in the office of magistrates and constables; and it shall be the duty of the proper officers of this commonwealth to do and perform every act, as provided for by law, that may be necessary and proper to carry out the provisions of this act.

Election justices and constables.

§ 4. That the terms of the offices herein provided for, shall expire at the same time and upon the same conditions that the terms of office expire of those magistrates and constables who were elected in May, 1852, so that elections of such officers, in future, may be uniform throughout said county.

When go out of office.

Approved January 9, 1852.

CHAPTER 427.

AN ACT to incorporate Crittenden Division, No. 17, Sons of Temperance.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all the present members and all who may hereafter become members of Crittenden division, No. 17, sons of temperance, be and they are hereby created a body politic and corporate, by the name and style of "Crittenden division, No. 17, sons of temperance;" and, as such, shall have perpetual succession, and be capable, in their corporate capacity, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, in all courts of law and equity; may

Corporate name and powers.

1852.

have and use a common seal; shall be capable of receiving, acquiring, and holding, either by gift, purchase, devise, or otherwise, any estate, real or personal, necessary for the support of said division; may lease, mortgage, lend, sell, and convey the same; and shall have power to make, amend, alter, and enforce such by-laws, rules, and regulations for the government of said corporation, and for the management of its property, as may not be inconsistent with the laws and constitution of this state or of the United States.

Former contract binding.

§ 2. That upon all contracts the members of said division may have heretofore entered into, through the instrumentality of a committee, or otherwise, shall be as binding upon the said corporation, and the said corporation shall have the same legal or equitable remedies thereon, as if the same had been made or entered into by or with the said corporation.

Repealing power reserved.

§ 3. That the general assembly hereby retains the power to alter, or amend, or repeal this act at pleasure; but no such alteration or repeal shall divest said corporation of its claim or right to any of its property or funds: *Provided*, that whenever the power hereby retained shall be exercised, such rules and regulations for the final settlement and disposition of its affairs, as are consistent with equity and justice, shall be granted to the said corporation.

Approved January 9, 1852.

CHAPTER 428.

AN ACT to charter the Lexington and Kentucky River Railroad Company.

Corporate name

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all persons who shall become stockholders, pursuant to this act, in the company hereby authorized, shall be and are hereby made a body corporate, under the name of the Lexington and Kentucky river railroad company, with power to construct and maintain a railway, with a double or single track, from Lexington to the three forks of Kentucky river, with such appendages as may be deemed necessary for the convenient use of the same, commencing at any eligible point in or near the city of Lexington; thence by the most practicable route to the Kentucky river, at such point or points as may be fixed by said company.

Capital stock.

§ 2. The capital stock of said company shall be one million of dollars, to be increased, if necessary to complete the road, and purchase the necessary depots at each end and along the line of the road; which capital stock shall be divided into shares of fifty dollars each, and be deemed personal property.

§ 3. That L. Combs, B. Gratz, John B. Tifford, J. W.

1852.

Commissioners.

Cochran, Richard Pindell, Samuel Jackson, John McMurtry, Jacob Ashton, Henry Bell, James Butler, E. K. Sayre, J. B. Beck, B. B. Taylor, D. C. Wickliffe, John Norton, G. Robertson, G. W. Norton, Owen D. Winn, Jacob Hughes, Neal McCann, Henry C. Payne, of Fayette county; and Samuel Hanson, Henry G. Poston, Roger Quisenberry, James H. G. Bush, Charles Eginton, John B. Houston, Andrew Hood, James Munday, John H. Martin, Francis F. Jackson, Theodore Kohlhas, and John S. Williams, of Clarke county; and Richard Apperson, Belvard J. Peters, Kenaz Farrow, Joseph Bondurant, William T. Chenault, James McKee, James Howard, Thomas Grubbs, A. W. Hamilton, Madison Stewart, Walter C. Chiles, Samuel Williams, L. M. Buford, and T. C. Barnes, of Montgomery county; and William Rodes, Daniel Breck, Edmund L. Shackelford, Hardin M. Green, Thomas Tharp, John Speed Smith, James B. Walker, Fayette M. Miller, William C. Goodloe, Thomas Stagner, Charles Kavanaugh, Dr. Jacob S. White, Thomas Richardson, Anderson Chenault, jr., and John Noland, of Madison county; and Ansel Daniel, William J. Clarke, Henry H. Thomas, Josiah A. Jackson, E. T. Cockerell, Morton P. Moore, John Chiles, Oliver Crawford, R. J. Burton, John H. Riddell, and Andrew Lawell, of Estill county; and John G. McGuire, Samuel Beatry, Hiram McGuire, Luther Brawner, William Morris, Estes Marsh, Abel Pennington, Isaac Congleton, Joseph J. Walker, William M. Fulkerson, and A. B. Acres, of Owsley county; and Thomas J. Frazier, Jeremiah V. South, Geo. Bowling, Thomas Sewell, Simon Cockerell, Alex. B. Patrick, and John Hargis, of Breathitt county; and William H. Burns, Mason Williams, B. F. Gardner, and Caleb Cash, of Morgan county, shall be commissioners for receiving subscriptions for stock of the corporation, agreeably to the provisions of this act.

§ 4. It shall be the duty of said commissioners, or any three of them, within twelve months after the passage of this act, to give notice in one or more papers in Lexington, Richmond, Mountsterling, &c., and in such other newspapers as may be deemed proper, once in a week for three weeks in succession, of the time and place of opening books for the subscription of said stock; and they shall open books at all such places as they may deem fit; at each of all places specified, one or more commissioners shall attend on the day fixed, and for three or more successive days, and during at least six hours of each day, shall continue to receive subscriptions to the capital stock of said company from all persons, or companies, or corporations who will subscribe thereto, in conformity with the provisions of this act.

Books to be opened; notice thereof.

§ 5. Each subscriber, at the time he subscribes, shall pay to the said commissioners, or to their agents appointed to

How subscriptions to be paid.

1852.

receive subscriptions, either in money or a note, negotiable and payable at some bank at sixty days date, or longer, at the option of said commissioners or their agents, the sum of two dollars on every share of stock subscribed by him or them, and the residue thereof shall be paid in such installments and at such times as may be required by the president and directors of said company.

When books
to be closed.

§ 6. If, at the expiration of the time mentioned in the fourth section of this act, (viz: three days,) it shall appear that one hundred thousand dollars or more shall have been subscribed to the capital stock of the corporation, or as soon thereafter as one hundred thousand dollars or upwards shall have been subscribed to the capital stock of said corporation, the books shall be closed.

Election of
directors; their
powers.

§ 7. As soon as may be after closing the books, the commissioners shall give notice of the time and place at which a meeting of the stockholders will be held for the choice of directors; and such notice shall be published in one or more papers in Lexington, Richmond, and Mount Sterling, for ten days preceding such election. At the time and place appointed for such election, the commissioners, or three or more of them, shall attend and lay the subscription books before the subscribers then and there present; and thereupon, the said subscribers, or a majority of them, then present, in person or by proxy, shall, from among the stockholders, elect six directors, by ballot, to manage the affairs of the company; and these six directors, or a majority of them, shall have the power of electing a president of said company, either from among the directors or any other stockholder, and of allowing him such compensation for his services as they may deem proper; and that in said election, and on all other occasions whenever a vote of the stockholders of said company is to be taken, each stockholder shall be allowed one vote for every share owned by him, her, or it; and every stockholder may, in writing, depute any other person to vote for him, her, or it, as his, her, or its proxy; and the commissioners aforesaid, or any three or more of them, shall be judges of the said first election of directors. All subsequent elections shall be conducted in the manner prescribed by the by-laws of said corporation.

§ 8. In all elections by the stockholders, a majority of the shares voted shall determine the choice.

Term of office.

§ 9. The directors shall hold their offices for one year, and until others shall be elected in their stead; they shall appoint a president, as directed in the seventh section of this act, and a suitable person as secretary of the corporation; they shall, moreover, appoint such other officers or agents as may be necessary, and the convenience of the company may require.

§ 10. The president and directors shall have power to

cause all necessary examinations and surveys for the route of said railroad to be made, and shall select the route upon which it shall be constructed. But if said directors, after having selected a route for said railway, find any obstacle to continuing said location, either by the difficulty of construction, or procuring the right of way at reasonable cost, or whenever a better or cheaper route can be had, they shall have authority to vary the route and change the location.

§ 11. The corporation is hereby empowered to purchase, receive, and hold such real estate as may be necessary and convenient in accomplishing the object for which the corporation is granted; and may, by their agents, engineers, and surveyors, enter upon such route, place or places selected, as aforesaid, by their directors, as the line whereon to construct said railroad; and it shall be lawful for the said corporation to enter upon and take possession of and use all such lands and real estate as may be necessary for the construction and maintenance of said railroad, and the accommodations requisite to and appertaining unto them; and may also receive, hold, and take all such voluntary grants and donations of lands and real estate as may be made to said corporation to aid in the construction, maintenance, or accommodation of said road or ways; but all lands or real estate, thus entered upon and used by said corporation, and all earth, timber, stone, gravel, and any other materials, needed by said company, shall be purchased of the owners thereof, at a price to be mutually agreed upon between them, and in case of any disagreement of the owners, as to the price of any lands or materials so required for said road, or if the owners are under any disability, in law, from any cause whatever, to contract, or are absent from the county, application may be made, either by said owner or by said corporation, to any judge of a circuit court, or any justice of a county court within which said lands or materials, so required or already appropriated, may be, (specifying the lands or materials,) and, thereupon, said judge or justice shall issue his warrant, in writing, directed to the sheriff of the county, requiring him to summon an inquest of twenty inhabitants of said county, who shall not be stockholders nor related to the owner of the lands or materials, &c., or in any wise interested, to meet at or near said lands or materials, so to be valued, on a day named in said warrant, not less than five nor more than ten days after giving the same; and if, at said time and place, any of said jurors summoned do not attend, the said sheriff shall summon, immediately, as many jurors as may be necessary, with the jurors in attendance, to furnish a pannel of twenty jurors attending; and from them each party, or its, his, or her, or their agent, if either be not present in person or by agent, the sheriff for him, her, or it, may strike

1852.

Location of road

Further power of company.

Condemnation of land.

1852.

off four jurors, and the remaining twelve shall act as the jury of inquest and damages; and before they act as such, the sheriff shall administer to them an oath or affirmation, as the case may be, that they shall justly value the damages which the several owners will sustain by the use or occupation of the lands, or materials, or property required by said company; and said inquest shall reduce their valuation to writing, and sign and seal the same; it shall then be returned by said sheriff to the clerk of the circuit court for said county, and by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown; and, when confirmed, shall be recorded by said clerk at the expense of said company; but if set aside, the court may direct another inquisition to be taken, in the same manner above prescribed; and such inquisition shall describe the property taken, or the bounds of the land condemned, and the quantity or duration of the interest on the same, valued for the company; and such valuation, when paid or tendered to the owner or owners of said property, or his, her, or their legal representatives, shall entitle the said company to the estate and interest in the same, thus valued, as fully as if it had been conveyed by the owner or owners thereof; and if the owner or owners be not found, it shall be sufficient if the valuation be deposited in any specie paying bank, to the credit of them, or their proper legal representatives; and every sheriff or juror acting in the premises shall receive one dollar per day for his services, to be paid on the first inquest by the said company, but upon all second or future inquests, as to the said court may seem just.

How to cross
streams.

§ 12. Whenever it shall be necessary for the construction of the railroad to intersect or cross any stream of water, or water course, or any road or highway, lying in or across the route of said road, it shall be lawful for the corporation to construct the said railway across or upon the stream, or to cut or cross any such road or highway, and to change the location thereof during the process of the construction of said railway; but the corporation shall restore the stream or water course, or road or highway, thus intersected, to its former state, or in a sufficient manner not to destroy its usefulness, and shall restore any road existing at the present time.

Branch roads.

§ 13. The said corporation shall have power to locate and construct branch roads from the main route, to any other towns or places in the several counties through or near which said road may pass, not destroying the vested rights of other corporations.

Stock to be
paid in calls.

§ 14. It shall be lawful for the president and directors to require payment of the sums to be subscribed to the capital stock, at such times and in such installments as they shall see fit; and if installments remain unpaid for sixty

days after the time of payment has elapsed, the board may collect the same by suit, or shall have power to sell the stock at public auction for installments then due, (giving twenty days notice of the time and place of sale, by advertisement in a newspaper in general circulation in the county where such sale is to be made,) and costs of making said sale; and the residue of the price obtained shall be paid over to the former owner.

§ 16. That said company may demand and receive for tolls upon, and transportation of goods, produce, or property of any kind whatever, by them along said railway, any sum not exceeding the following rates: on all goods, merchandise, or property of any description transported by them, a sum not exceeding one and a half cents per mile for toll; five cents per ton per mile for transportation; and for the transportation of passengers, not exceeding four cents per mile for each passenger.

§ 16. If the subscribers to the company hereby created shall not become so far organized as to elect a board of directors within five years from the passage of this act, and within two years thereafter, make *bona fide* contracts for the construction of at least one-sixth of said road, the privileges of said corporation shall cease, and this act be void.

§ 17. That any other railroad company which has been or may hereafter be chartered by law of this state, may join and connect any railroad with the road hereby contemplated; and full right and privilege is hereby reserved to the state, or individuals, or any company incorporated by law of this state, to cross this road: *Provided*, any other railroad connecting with the road hereby provided for shall lead from the main route, and diverge therefrom at an angle of twenty degrees or more: *and, provided*, that in forming such connection, or in crossing the said road, no injury be done to the works of the company hereby incorporated.

§ 18. That any road connecting with the road hereby incorporated, shall have their cars drawn on said road by the Lexington and Kentucky river railroad company, without delay and without unloading, on such terms as said company may agree upon, and on the payment of the proper tolls, the said Lexington and Kentucky river railroad company furnishing the motive power at a reasonable price.

§ 19. That the said president and directors shall, annually or semi-annually, declare and make such dividends as they may deem proper, of the net profits arising from the resources of said company, after deducting the necessary current and probable contingent expenses; and shall divide the same among the stockholders of said company, in proportion to their respective shares.

1852.

Rates of tolls.

When charter to be void.

Any other road may unite with this.

No delay in transportation of cars allowed.

Dividends.

1852.

Vacancy—how
filled.

§ 20. That when any vacancy shall occur in the board of directors of said company, by death, resignation, or other cause, the board remaining shall have power to fill such vacancy; and the person or persons so appointed shall continue in office until the next annual election for directors of said company.

Meetings of
stockholders.

§ 21. That a general meeting of the stockholders of said company may be called at any time during the interval between the annual meetings by the president and directors, or a majority of them, or by the stockholders owning at least one-fourth of the whole stock subscribed, upon giving public notice for thirty days of the time and place of holding the same, in Lexington, named in the advertisement; and when any such meetings are called by the stockholders, such notice shall specify the particular object of the call; and if, at any such called meetings, a majority (in value) of the stockholders of said company are not present, in person or by proxy, such meeting shall be adjourned from day to day, without transacting any business, for any time not exceeding three days; and if, within said three days, stockholders having a majority (in value) of the stock subscribed, do not then attend, such meeting shall be dissolved.

Statement of
affairs.

§ 22. At the regular meeting of the stockholders of said company, it shall be the duty of the president and directors, in office for the preceding year, to exhibit a clear and distinct statement of the affairs of the company; and at any called meeting of the stockholders, a majority (in value) of the whole stock subscribed, being present, or a majority (in value) of the attending stockholders may require similar statements from the president and directors, who shall furnish them when so required; and at all general meetings of the stockholders, a majority (in value) of all the stockholders in said company may remove from office the president or any of the directors of said company, and fill up vacancies thus created, in the same way and to the same extent that they could do at their stated annual meeting.

Directors to
take oath.

§ 23. Every president and director of said company, before he acts as such, shall swear or affirm (as the case may be,) before some person authorized to administer oaths, that he will well and truly discharge the duties of his said office to the best of his skill and judgment.

Books to be
re-opened.

§ 24. That if any of the stock created by virtue of this act, shall remain unsubscribed until after the election of the president and directors, as provided for in the seventh section of this act, the said president and directors, or a majority of them, shall have power to open the books and receive subscriptions to any of the capital stock of said company which may remain unsubscribed for, or to sell or dispose of such unsubscribed stock for the benefit of said company, for any sum not under its par value, (unless by the

consent of a majority, in value, of the stockholders;) and the purchasers or subscribers of said stock shall have all the rights, powers, and privileges of original stockholders, and shall be subject to the same regulations; and if the exigencies of the company should require the payment on the stock to be made more rapidly than is provided for herein, or should the president and directors, or a majority of them, consider it expedient for the purpose of aiding the stockholders, or hastening the completion of the contemplated road, it shall be lawful for them to borrow, on the credit of the company, a sum of money not exceeding five hundred thousand dollars, and shall have power to pledge the property of the company for the payment thereof.

1852.

May borrow money.

§ 25. That the Lexington and Kentucky river railroad company, so as aforesaid formed, shall have perpetual succession of members; may have a common seal, may sue and be sued, plead and be impleaded, in any court of law or equity; and the president and directors thereof may make all such rules, and regulations, and by-laws as are necessary or proper for the government of the corporation, or effecting the object for which it is created: *Provided*, such rules, regulations, or by-laws shall not be repugnant to the laws and constitution of this state or of the United States; and said president and directors shall let out all contracts for the construction of said road, and for the purchase of materials, cars, engines, &c., and for the erection of all necessary and convenient buildings for said company.

Corporate powers.

§ 26. That if any person or persons shall willfully, by any means whatever, injure, impair, or destroy any part of any railroad constructed for said company under this act, or any of their necessary works, buildings, carriages, vehicles, or machinery of said company, such person or persons, so offending, shall each of them, for every offense, forfeit and pay to said company a sum equal to twice the value of the property destroyed or injured, or twice the damages sustained by said company by reason thereof, which may be recovered in the name of said company, by action in the circuit court of the county wherein the offense shall be committed; and each offender shall also be subject to indictment in said court, and, upon conviction of such offense, shall be punished by imprisonment not less than six months nor more than four years, in the discretion of a jury.

Penalty for obstructing road

§ 27. That the president and directors of said company shall cause to be paid into the treasury of this commonwealth, a tax of five cents annually, upon each two shares of stock owned and held by any stockholder of said company, the same to be collected as now or hereafter may be provided by law for the collection of the state revenue: *Provided*, that no citizen of this commonwealth shall be required

State tax to be paid annually

1852.

Certain cities,
towns and coun-
ties may sub-
scribe stock.

to list any share he, they, or it may hold in said road, under the equalization law; the tax imposed by this act shall be collected only upon the cost of this road, as the said road is completed and put in use, carrying freight and passengers for pay.

§ 28. That the city of Lexington and county of Fayette, the town of Richmond and county of Madison, the town of Irvine and county of Estill, the town of Winchester and county of Clarke, the town of Mountsterling and county of Montgomery, the county of Owsley, the county of Breathitt, and the county of Morgan, and any other county or corporation, shall be hereby permitted to hold stock in the corporation created by this act, upon the same terms, on the same conditions, and subject to the same restrictions with other stockholders: *Provided*, the amount by said city, town, or counties, separately subscribed, shall not in a single instance exceed the following sums: by Lexington, one hundred thousand dollars; by Fayette county, two hundred thousand dollars; by Richmond, one hundred thousand dollars; by Madison county, two hundred thousand dollars; by Estill county, two hundred thousand dollars; by Winchester, one hundred thousand dollars; by Clarke county, two hundred thousand dollars; by Mountsterling, one hundred thousand dollars; by Montgomery county, two hundred thousand dollars; by Owsley county, one hundred thousand dollars; by Breathitt county, one hundred thousand dollars; and by Morgan county, one hundred thousand dollars; and by any other city, town, county, or corporation, any sum not exceeding the largest amount aforementioned; and it shall be lawful for the president and directors of said company, or the commissioners for said road in either county, after giving six weeks notice thereof, by advertisement in the papers of Lexington, Richmond, or Mountsterling, or, if there be no paper printed in the county wherein a vote shall be proposed, then in such paper as may have a general circulation in such county, upon a day named in the advertisement, to take the sense of the qualified voters of said city, town, or county, or any one or more of them, for becoming the subscribers of stock in said railroad company to any amount which may have been proposed in said printed notice, not exceeding the respective sums above specified; and it shall be the duty of the mayor and councilmen of the city of Lexington, and of the trustees of Richmond, Winchester, Mountsterling, and the county courts of the several counties, upon the day named in the said printed notice, to open columns in the various precincts in Lexington, Richmond, Winchester, Mountsterling, and the respective counties herein named, and take all necessary measures for correctly ascertaining the sense of the qualified voters of their respective city, towns, and counties, at the polls thereof, as aforesaid; and, provided a ma-

Vote of differ-
ent cities, towns
and counties.

1852.

majority of all the qualified voters of any of said city, towns, or counties shall be in favor of the said several subscriptions of stock, as proposed to said city, town, or county, it shall be the duty of the mayor and council of said city to pass an ordinance directing the mayor, on behalf of such city, to subscribe for any amount of stock provided for in said ordinance, not exceeding the sum specified in said printed notice; and it shall be the duty of the trustees of said towns, and of the county court of every such county, in like manner, to empower and direct their clerk to subscribe for the amount of stock authorized by the voters of said town or county, not exceeding the sum specified in said printed notice; and it shall be lawful for said city, town, or county, so authorizing subscriptions to the capital stock of said company, to raise the amount of their separate subscriptions, as the same shall be called by the president and directors of said road, by a tax on the real and personal estate of the said city of Lexington, towns and counties subscribing, or by borrowing the amount thereof, at any date not exceeding thirty years, payable in the way and on the terms the said mayor and council of Lexington, the trustees of said towns, and the said several county courts may deem most advisable; and the interest on all such sums borrowed may be provided for in such manner as to them seem best: *Provided*, that all taxes laid by any city, town, or county, to pay the principal and interest, or either, of the amounts borrowed by them, shall be pledged and sacredly appropriated to such purpose, and no other: *And provided*, that all sums paid by any city, town, or county, on account of the several subscriptions of any city, town, or county, or in payment of the interest upon any such subscription, shall entitle him to a certificate for the amount thereof; and when said certificates amount to fifty dollars, shall entitle the holder thereof to one share in the stock subscribed by his said city, town, or county, for every fifty dollars so held: *Provided further*, that the city council for the city of Lexington may, at any time after the passage of this act, on giving three weeks notice thereof in the newspapers printed in said city, cause a poll to be opened in the four wards of the city, and the sense of the voters taken as to the propriety to the capital stock of said road, as provided in this charter; and if a majority of those voting are in favor, it shall be the duty of the board of council to subscribe the number of shares provided for in this charter, so soon as the books are opened; and the president and directors of said company, or the commissioners of said company in either county, shall have a right to require as many as three votes to be taken in their respective counties for the subscription of stock in said company, before the question of subscribing stock in said company by said city, town, or county shall be decided against the subscription of stock by said city, town, or county, in said company.

Payment of
subscription.

Certificate.

1852.

CHAPTER 439.

AN ACT to amend an act, entitled, an act to charter the Louisville and Nashville Railroad, and the act amending the same, approved March 20, 1851.

County court
may subscribe to
stock.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the act recited in the title shall be so amended that it shall be lawful for any county through which said Louisville and Nashville railroad or its branches may pass, or any county contiguous to the line of said railroad and its branches, to subscribe for and take as many shares in the capital stock of said company as may seem expedient to the voters of said counties, as provided for in section 22 of said Louisville and Nashville railroad charter, approved March 5, 1850, and section 6 of the amendments thereto, approved March 20, 1851.

Vote on sub-
scribing.

§ 2. That whenever the said Louisville and Nashville railroad company shall request the county court of any county through which they propose to construct said railroad, or any of its branches, to subscribe, either absolutely or upon specified conditions, a specified amount to the capital stock of said company, the county court, so requested, shall, within sixty days thereafter, on a day to be appointed by said court, cause a vote of the people of the said county to be taken at the several election precincts in the county, and shall appoint the judges and other officers necessary to conduct the election, and the return thereof shall be made to the clerk of the county court within ten days after the said election shall be held.

If result in fa-
vor, stock to be
subscribed.

§ 3. That at its next term after the return of the vote, as aforesaid, to the clerk of the county, the court shall order the vote for and against the subscription to be entered upon its record; and if a majority of the votes cast shall appear to be in favor of the subscription, the court shall order its clerk to make it forthwith, in the name of the county, and in accordance with the vote.

County court
may issue bonds

§ 4. That when any such subscription shall be made, the county court shall have power to issue the bonds of the county, in payment thereof, with coupons attached, under the seal of the county court, signed by the presiding judge thereof, and countersigned by the clerk, for the full amount of such subscription. The bonds shall be negotiable and payable to the said Louisville and Nashville railroad company, in the city of New York, at not more than twenty years from the date of issue, and shall bear interest from the date thereof at the rate of six per cent. per annum, payable semi-annually in the city of New York: *Provided*, that the county court of any county having voted and subscribed, as aforesaid, shall have power to levy a direct tax in each county, sufficient to pay, in four years or longer, as to the county court may seem most expedient, from the time of subscribing, the whole of said subscription: and,

May levy tax.

1868.

provided further, that the county court of any county, as aforesaid, shall have power, if by them deemed most expedient, to levy a direct tax sufficient to pay, in four years from the time of subscribing, the one-half of the amount subscribed by such county to the capital stock of said railroad; and shall also have power to issue to said Louisville and Nashville railroad company the bonds of the county, as aforesaid, for the remaining one-half of said subscription; which said bonds shall be issued to said railroad company to an amount not exceeding one-half of the total amount in any one year; and it shall be the duty of the county court to pay the subscription of the county by some one of the modes recited in this section, as to the county court may seem most expedient.

§ 5. That in any case where the voters of any county through which it is proposed that the said Louisville and Nashville railroad, or any of its branches, shall pass, have voted in favor of subscribing to the capital stock of the said railroad company, in conformity to any previous act authorizing the same, it shall be lawful for the county court of any such county to provide for the payment of said subscription, as provided for in section 4 of this act.

Stock subscribed under previous acts may be paid by a tax.

§ 6. That after any such subscription shall be made, the commissioners of tax for the county shall distinguish in their tax lists between the personal property and slaves listed which are most usually kept in said county, and those which are most usually kept in any other county.

Commissioners of tax to discriminate.

§ 7. That in any case where any county subscribing to the capital stock of said Louisville and Nashville railroad, as above provided, shall issue bonds for the whole or any part of said subscriptions, as provided for in section 4 of this act, and until the dividends on the stock subscribed, for which the county bonds may be issued, shall be sufficient to pay the interest on the said bonds, the county court shall levy a tax on the property, both real and personal, as listed for state purposes, which shall lie or be most usually kept in said county, sufficient, after making a reasonable allowance for delinquencies, to pay said interest, or such part thereof as such dividends shall be at any time insufficient to pay; and said levy shall include the amount given in under the equalization law.

Tax to pay interest.

§ 8. That within twenty days after any tax shall have been levied in any county, as provided above, to pay either the whole of the subscription or any part thereof, of any county to the capital stock of the said Louisville and Nashville railroad company, or to pay the interest on any bonds given by any county to said company for such subscription, as provided for in section four of this act, the presiding judge of the county court shall summon the justices of the peace of the county to meet together on a day to be by him appointed, at not more than sixty days from the time

Commissioners of sinking fund.

1852.

Term of service.

Treasurer ; to execute bond.

Compensation.

Vacancies—how filled.

Sheriff to be collector.

Sheriff to execute bond ; his compensation.

such levy shall be made, to elect three persons, who shall be called the "commissioners of the sinking fund" of such county as may subscribe, as aforesaid, to the capital stock of said Louisville and Nashville railroad company. One of said commissioners shall hold his office for one year, another for two years, and another for three years, the term of each to be decided by lot; and annually, after the first election, the justices of the peace shall re-assemble and elect a commissioner to fill the place of the one whose term shall then expire; and such commissioner shall serve three years. Said commissioners shall annually appoint one of their number treasurer, and such treasurer, before he receives any moneys under the provisions of this act, shall execute bond with surety, to be approved by the county court, in double the sum which shall be expected to be collected during the year then to ensue, under the provisions of this act, payable to said county, and conditioned to account for and pay over, on the order of said commissioners, all funds which shall come into his hands under the provisions of this act; and said treasurer shall be allowed for his services not exceeding one per cent. of all moneys which he shall receive and pay over. In case of any vacancy, by death, resignation, or from any other cause, in said board of commissioners, such vacancy shall be filled for the unexpired term by the county court.

§ 9. That the sheriff of any county subscribing, as above provided, shall collect all taxes levied under the authority of this act, and, for that purpose, he shall have the same powers for distraining, advertising, and selling personal estate and slaves which he has in the collection of the state revenue; and when he shall be unable to find any personal estate or slaves liable to the tax of any individual, he may levy on the real estate of such individual, and sell the same, under the rules and regulations prescribed for the sale of real estate under execution. But the owner of any real estate, so sold, who shall not have consented to the said sale, in writing, shall have five years to redeem the same, upon payment of the purchase money, and ten per cent. interest per annum, with all taxes and levies which shall have accrued subsequently to the sale.

§ 10. That the sheriff of any county, as above provided for, subscribing to the capital stock of the Louisville and Nashville railroad company, shall execute bond with surety, to be approved by the county court, in double the sum which shall be expected to be collected during the year then to ensue, under the provisions of this act, payable to the county so subscribing under this act, and conditioned to account for and pay over, from time to time, to the said commissioners of the sinking fund, upon their order, all funds which shall come into his hands under this act; and said sheriff shall be allowed for his services not to ex-

ceed two per cent. of all moneys thus received and paid over.

§ 11. That the commissioners of the sinking fund of any county subscribing to the capital stock of said Louisville and Nashville railroad, as aforesaid, shall see that the sheriff collects and pays over, according to law, the taxes herein provided to be levied; and shall institute legal proceedings against him in case of failure. They shall appropriate such taxes to the payment, at the office of the said Louisville and Nashville railroad company, of the amount to be paid by said county, in cash, as specified in the said terms of subscription; and shall also appropriate such taxes as shall be levied to pay interest on the bonds, given by any county so subscribing, for said subscription, to the payment, at the city of New York or elsewhere, as the bonds may be made payable, of the interest on the bonds herein permitted to be issued. They shall cast the votes to which their county shall be entitled in the annual or other elections of said railroad company, by reason of said subscription of stock. They shall receive the dividends upon all such stock as is held in the name of the county, and apply them, first, to the payment of the interest upon the county bonds, and when a surplus shall accrue after the payment of such interest, they shall apply such surplus to the purchase of their county bonds, if they can be purchased at par or under; and if that cannot be done, they shall invest such surplus in some safe and profitable manner, and in such manner that when it shall at any time be wanted for purchase or payment of the bonds, it can be speedily and readily converted into cash for that purpose.

§ 12. That all dividends which shall be received upon the stock held and owned by any county, under this act, shall be and are hereby sacredly set apart as a sinking fund, to be only used, as above provided, for the payment of the principal and interest upon the bonds which shall be issued by any county, under this act.

§ 13. That in case the dividends upon the stock held by the county, and for which the bonds of the county shall have been given, shall not be sufficient to enable such county to redeem said bonds at maturity, by means of the sinking fund, as provided for in this act, it shall be the duty of the commissioners of said fund to report such deficiency to the county court; and upon such report being received by the county court, it shall be the duty of said court to levy a direct tax, as provided for in this act, sufficient to redeem the bonds when they arrive at maturity.

§ 14. That in case of a direct tax being levied to redeem the bonds at maturity, as provided for in section 13 of this act, it shall be the duty of the commissioners of the sinking fund to cause to be transferred to the order of the tax-payers, the stock held by said county, upon the delivery to the

1852.

Duties of the commissioners sinking fund.

Dividends to go into sinking fund.

Further duties commissioners.

When stock to be divided among tax-payers

1852.

said commissioners of the tax receipts by the holders thereof. Said tax receipts shall be negotiable by indorsement, and no stock shall be transferred for a less amount than one share.

Certificates of
stock.

§ 15. That the said Louisville and Nashville railroad company shall, upon the date of the first dividend, and thereafter upon presentations and surrender, at the office of the company, of tax receipts for taxes paid to defray interest upon bonds given by any county, under this act, issue to the holders thereof stock for the same. Said tax receipts shall be negotiable by indorsement, and no stock shall be issued for a less amount than one share.

Further duties
commissioners.

§ 16. That in case any county shall elect to pay the whole or any part of their subscription in cash, by means of a direct levy, it shall be the duty of the commissioners of the sinking fund of said county to cause to be transferred to the tax payers, stock for the tax thus paid, upon the presentation and surrender to the said commissioners of the tax receipts, which are hereby made negotiable by indorsement; but no stock shall be transferred by said commissioners for a less amount than one share; and it shall be the duty of the said Louisville and Nashville railroad company to place in the possession of said commissioners, stock of the company to an amount equal to the amount of moneys received or to be received by the company in the year said tax is to be levied, to pay the yearly proportion of such subscription as is to be paid to said company, in cash.

Commissioners
to keep record.

§ 17. That the said commissioners of the sinking fund shall keep a record of all their proceedings and doings; and their treasurer shall keep strict account of all moneys which shall be received or paid over by him, and shall annually, before the expiration of his term, settle the same in his county court; and it shall be the duty of the said county court to cause to be published annually, in a newspaper published in their county, or, if there is no newspaper published in their county, then in some newspaper published in the city of Louisville, a certified statement of the condition of the sinking fund, also, of the moneys received and paid out by the commissioners during the year, and also from its commencement.

Accounts to be
published.

§ 18. That in case the name and style of the said Louisville and Nashville railroad company shall be changed to that of the Louisville and southwestern railroad company, this act shall be of the same force and effect to that company as to the said Louisville and Nashville railroad company.

Conditional
subscription by
counties.

§ 19. That the county court of any county through which it is probable that said railroad will pass, and before the same is located, may propose to subscribe stock in the capital of said company, in the name and for the benefit of said

county, upon conditions to be specified and prescribed by the order of record in the county court. The order prescribing the conditions, and specifying the amount of stock to be subscribed, shall be entered of record at any term of the court, when presented by and at the request of twelve citizens and tax payers of such county.

§ 20. After the order is entered, it shall be the duty of the county court to order a vote to be taken, by the officers of the election and at the places of voting in the county, to ascertain the opinion of the qualified voters of the county upon the propriety of making the subscription of stock in said road, upon the conditions prescribed in the county court order. Elections held under such order shall be governed and conducted as required by the laws regulating elections. The vote shall be taken for and against the subscription of stock; and if, according to the provisions of the third section of this act, it shall appear that the proposed subscription of stock is approved, it shall be the duty of the county court to make the subscription, upon the conditions prescribed; and if the subscription be accepted by the directory of said company, then the other provisions of this act shall apply to said county, to enable her to meet the payment of the subscription, the principal and interest of the same, in any of the modes provided.

§ 21. The day fixed by the county court to take the vote, under the nineteenth section, shall not interfere with any regular election appointed by law. The sheriff conducting the election shall, after the poll books are certified by the clerk and judges, on the second day after the election, return them to the clerk of the county court, whose duty it shall be to report to the next term of the county court the result of the vote, which shall be entered upon the record of said court.

§ 22. That the amendatory act, approved March 20, 1851, and referred to in the title of this act, is hereby so amended as to authorize said company to pay any part of the cost of constructing said road, or any branch thereof, and depots, engines, and passenger and freight cars, with the bonds of said company, as provided in the eighth section of said amendatory act.

§ 23. That no tax shall be levied in the counties of Nelson or Grayson, or subscriptions of stock made by the county courts of said counties, under this act, unless, at the August election, a majority of all the voters of said counties shall vote in favor of said tax; and the number of voters shall be ascertained by the commissioners' books for the same year that the election shall take place.

Approved January 9, 1852.

1852.

Vote on subscribing conditionally.

Carrying out the provisions of this act.

Vote not to be taken on a regular election day.

Company may issue bonds.

Exemption of certain counties.

1852.

CHAPTER 430.

AN ACT to charter the Kentucky and Virginia Railroad Company.

Commissioners.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Benjamin Gratz, Henry Pindell, Robert A. Athey, James O. Harrison, Henry Duncan, Joseph Bryan, W. A. Leavy, and William Downing, of the county of Fayette; Harrison Thompson; Thomas Hart, Henry Poston, John S. Williams, Francis McDonald, of the county of Clarke; James W. Moore, R. Apperson, Kenaz Farrow, A. M. Barnes, Peter Everette, James Tarley, J. D. Wilson, and Nelson Prewitt, of the county of Montgomery; J. W. Hazlerigg, W. H. Burns, Dr. Daily, William Trimble, B. F. Gardener, of the county of Morgan; William Prater, — Patrick, J. M. Lackey, J. H. Hereford, J. P. Martin, Hugh Harkins, Robert Huey, G. V. Vincent, E. Trimble, and J. B. Harris, of the county of Floyd; Thomas Price, William Cecil, William Weddington, Colbert Cecil, John Morris, J. Dills, Farmer Leslie, Martin Leslie, William Ratliffe, George Powell, George N. Brown, of the county of Pike, be and they are hereby appointed commissioners, under whose direction, or any three of them, and such other persons as a majority of the commissioners herein appointed, in any county or town in the state of Kentucky, or within any of the states, subscription of stock may be taken, to constitute the capital stock for the construction of a railroad from Lexington to the line of Virginia, terminating at such point as may, on its final location, be deemed most expedient; and, for that purpose, a company is hereby incorporated. The said commissioners, and such others as may be appointed, may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions to the capital stock of said company, after having given notice of the times and places of opening the same, as they may deem proper; and after the first opening of such books, they may continue them open for such time, and may adjourn to such places as they may deem expedient; and if such subscription to the capital stock of said company as may be necessary to its incorporation shall not have been obtained, the commissioners, a majority of them concurring, may cause said books to be opened and kept open from time to time, and at such places as may seem expedient, until the sum necessary for the incorporation shall have been subscribed: *Provided*, that any subscription, tendered at any time or place other than that advertised by said commissioners, shall be as valid against the party subscribing as if received at the time and place advertised; and if any of said commissioners shall die, resign, or refuse to act, during the continuance of the duties devolved on them by this act, another may be appointed in his stead by the remaining com-

Subscriptions:

Books to be opened.

Vacancy: how filled.

missioners, or a majority of them, of the county for which said commissioner was originally appointed.

1852.

§ 2. That the capital stock of the said Kentucky and Virginia railroad company shall be one million of dollars, in shares of one hundred dollars each, which may be subscribed for by any individual or corporation, city, town, or county; and as soon as one thousand shares of said capital stock shall be subscribed, the subscribers of said stock, their successors and assigns, shall be and they are hereby declared to be incorporated into a company, by the name of the Kentucky and Virginia railroad company, and by that name shall be capable of purchasing, holding, selling, leasing, and conveying real estate, so far as the same shall be necessary for the purposes of their incorporation; and shall have perpetual succession, and, by said corporate name, shall sue and be sued, and may have and use a common seal, which they shall have power to alter or renew at pleasure; and shall have, enjoy, and exercise all the powers, rights, and privileges which other corporate bodies may lawfully do.

Capital stock.

Corporate name and powers.

§ 3. That if more than ten thousand shares shall be subscribed to the capital stock of said company, the said commissioners, or a majority of them, if it shall appear that such excess is more than necessary to complete the road, shall reduce, by striking off in succession from the largest number of shares, subscribed by single individuals, or corporations, towns, cities, or counties, until the subscription shall be reduced to an amount sufficient to complete the road, so as to equalize the stockholders.

Excess of stock may be reduced.

§ 4. That at every subscription of stock, there shall be paid to the said commissioners, at the time of subscribing, or to their agents, either in money or a note, (except in cases of towns and counties,) negotiable and payable at some bank in the state, as said commissioners may elect, at sixty days date or longer, at the option of the commissioners or their agents, the sum of one dollar on every share subscribed; and the residue thereof shall be paid in such installments, and at such times as the board of directors may require: *Provided*, that the payment not be demanded until at least thirty days notice shall have been given by said board of directors, by a publication in one or more of the newspapers published in Lexington or Mount Sterling, or elsewhere, if said board shall deem expedient; nor shall more than twenty per cent. of each share of stock be called for in any one year; but if the exigencies of the company shall require the payments of the stock to be made more rapidly than herein provided for, the said board of directors, or a majority of them, shall have power to borrow, on the credit of said company, a sum of money not exceeding, at any one time, five hundred thousand dollars; and if any subscriber shall fail or neglect

How stock to be secured, and calls paid.

Calls on stock regulated.

May borrow money.

1852.

Delinquent subscribers.

to pay any installment or part of said subscription, when demanded according to the provisions of this section, the same may be recovered by action, in the name of said corporation, against such delinquent subscriber, before any tribunal having jurisdiction of such cases; and in all such actions, publication, as directed in this section, shall be the only demand necessary; or, in case of such failure or neglect to pay any installment or part of subscription, demanded according to the provisions of this section, shall continue for the space of sixty days next after the time the same shall be due and payable, the board of directors may, in their discretion, order that the same shall be forfeited to the company, if they think proper; but the said board, by a majority of the whole of them, may remit any such forfeiture, on such terms as they may think proper. It shall be lawful to receive subscriptions to the capital stock of this company, payable by the execution of contracts, well secured, to build such part of the road, or to perform such work in the construction thereof, as may be accepted by the company.

Subscriptions may be made in work.

When charter void.

§ 5. That if the subscription, made necessary herein to the incorporation of said company, shall not be obtained in ten years after the first opening of the books by the commissioners, under this act, then this act, and all the subscriptions under it, shall be null and void; and said commissioners shall, after discharging expenses of opening the books, return the money paid in upon the subscriptions, to the several subscribers, in proportion to the sums respectively paid by each.

Organisation of company.

General meeting.

§ 6. That at the expiration of the period for which the books are first opened, if one thousand shares of the capital stock shall have been subscribed, or, if not, as soon thereafter as the same shall be subscribed, if within ten years after the first opening of said books, said commissioners, or a majority of them, shall call a general meeting of the subscribers, at such time and place as they may deem proper, and shall give at least twenty days public notice thereof in some one or more of the newspapers published in Lexington, Mountsterling, or elsewhere, if the said board may deem expedient; and at such meeting the said commissioners shall lay the subscription books before the subscribers then and there present, and thereupon the said subscribers, or a majority of them, there present, shall have the power to elect, from among the stockholders, seven directors to manage the affairs of said company, and a treasurer; and the directors, a majority of them concurring, shall have the power to elect a president of said company, either from among the directors or any one of the stockholders, and allow such compensation for his services as they may think proper; and in such election, and on all other occasions wherein a vote of the stockholders of

Election of directors.

Election of president.

1852.

said company is to be taken, each stockholder shall be allowed one vote for every share owned by it, him, or her; and every stockholder may, in writing, depute any other person to vote and act as its, his, or her proxy; and the commissioners aforesaid, or any three or more of them, shall be the judges of said first election of directors.

§ 7. That to continue the succession of the president and directors of said company, the seven directors shall be chosen annually on the first Monday in June, every year, in the town of Mountsterling. The directors, so elected, may elect one of their own body, or any one of the stockholders, as president of the company, who shall hold his office until the next annual election, and until a successor be duly elected and qualified; and if a vacancy should occur in their own body, or in the office of president, the directors shall have power to fill the same for the unexpired term.

Directors to be elected annually

§ 8. That a general meeting of the stockholders of said company may be called at any time during the interval between the annual meetings, by the president and directors, or a majority of them, or by the stockholders owning at least one-fourth of the whole stock subscribed, upon giving thirty days notice of the time and place of holding the same, in one or more of the newspapers published in Lexington and Mountsterling; and when any such meetings are called by the subscribers, such notice shall specify the object of the call; and if, at any such called meetings, a majority, in value, of the stockholders are not present, in person or by proxy, the same shall be adjourned, from day to day, without transacting any business, for any time not exceeding five days; and if, within said five days, stockholders having a majority, in value, of the stock subscribed, do not attend, such meeting shall be dissolved.

When general meeting called.

§ 9. That at the regular annual meetings of the stockholders of said company, it shall be the duty of the president and directors, in office for the preceding year, to exhibit a clear and distinct account of the affairs of the company; that at any called meeting of the stockholders, a majority, in value, of the holders of the stock subscribed being present, may demand and require similar statements from the president and directors, whose duty it shall be to furnish them, when thus required; and that at all general meetings of the stockholders in said company, a majority of them, in value, may remove from office the president or any of the directors, and fill up the vacancy, thus made, in the same manner that they could do at any of their stated annual meetings.

Statement of affairs.

§ 10. That the president and directors of said company, before he or they act as such, shall swear or affirm, as the case may be, that they will well and truly discharge the duties of their respective offices, to the best of their skill

President and directors to take official oath.

1882.

Treasurer to
execute bond.

and judgment; and the said president and directors, or a majority of them, or a majority, in value, of the stockholders in said company, at any of the stated or called meetings of said stockholders, shall have power to elect or appoint a treasurer of said company, and to require and take of him such bond, in such penalty, and with such securities as they may deem necessary, payable to said company, and conditioned for the faithful keeping and disbursing of all such moneys and other effects as may come to his hands, and with such other conditions as may be prescribed; upon which said bond recovery may be had, for a breach of the conditions thereof, by suit, in the name of said company, in any court having jurisdiction thereof.

Books may be
re-opened.

§ 11. That if any of the stock created by this act shall remain unsubscribed until after the election of the president and directors, as provided for in the sixth section of this act, the said president and directors, or a majority of them, shall have power to open books and receive subscriptions to any of the capital stock which may remain untaken or unsubscribed for, or dispose of such untaken stock, for the benefit of the company, not under its par value; and the subscribers or purchasers of said stock shall have all the rights of original subscribers, and subject to the same regulations.

Directors to
appoint sub offi-
cers, and enact
by-laws.

§ 12. That the said president and directors, or a majority of them, may appoint all such officers, agents, or servants as they may deem expedient for the business of the company, and they may remove any of them at pleasure; that they, or a majority of them, may determine, by contract, the pay of such officers, agents, and servants, and regulate, by by-laws, the manner of adjusting all accounts against the company; that they shall have power to erect warehouses, work-shops, depots, and all other buildings necessary for the transaction of any business of the company; that they shall have power to direct and regulate in what manner, and by what evidence, stock in said company may be transferred; and to pass all by-laws which they may deem necessary or proper for exercising the powers hereby vested in said company, and for carrying out in effect this act: *Provided*, the same shall not be contrary to the laws of the United States or of this state.

Erect buildings.

Capital stock
may be increas-
ed.

§ 13. That if a capital stock of said company shall be deemed insufficient for the purposes of this act, it shall and may be lawful for the president and directors of said company, or a majority of them, to increase the same, by the addition of as many shares as they may deem necessary, not exceeding one million of dollars, giving notice as hereinbefore prescribed.

Corporate pow-
ers.

§ 14. That the president and directors of said company are hereby vested with the powers and rights necessary for the construction of a railroad from the city of Lexington

1852.

to the line between the states of Kentucky and Virginia, the route to be by them selected and determined, not exceeding sixty feet wide, with as many sets of tracks as they may deem necessary; and that they may cause to be made contracts with others for making said railroad, or any parts of it; and that they, their agents, engineers, &c., or those with whom they may contract for surveying or making the same, or any part thereof, may enter upon, use, and excavate any land which may be wanted for the site of said road, or the erection of warehouses or other structures or works necessary to said road, and its use, or for any other purpose necessary or useful in the construction or repair of said road, or its works or appurtenances; and they may build bridges, and construct tunnels: *Provided*, the same do not obstruct the navigation of navigable streams; may fix scales and weights, lay rails, take and use any earth, timber, gravel, stone, or other material which may be useful or necessary for the proper construction, completion, or repair of said road.

May enter upon lands.

§ 15. That the president and directors of said company, or a majority of them, or their authorized agents, may agree with the owner of any land, earth, timber, or stone, or any other materials, or any improvements, which may be wanted for the construction or repair of any of said roads, or any of their works, for the purchase or use and occupation of the same; and if they cannot agree, and if the owner or owners, or any of them, be a *feme covert*, under age, *non compos mentis*, or out of the county in which the property wanted may be, when such land or materials may be wanted, application may be made to any justice of the peace of such county, who shall, thereupon, issue his warrant, under his hand, directed to the sheriff of such county, requiring him to summon a jury of twenty inhabitants, not related or in anywise interested, to meet on the land, or near the property or materials to be valued, on a day named in said warrant, not less than ten days or more than twenty after the issuing of the same; and if, at the time and place, any of said jurors do not attend, said sheriff shall forthwith summon as many jurors as may be wanted, with the jurors in attendance; and from them each party, or, if not present, by agent or otherwise, the sheriff then for the party absent, may strike off four jurors, and the remaining twelve may and shall act as the jury of inquest of damages; and before they act as such, the said sheriff shall administer to each of them an oath or affirmation that he will justly and impartially fix the damages which the owner or owners shall sustain by the use and occupation of the said property required by the company; and the said jury, in estimating such damages, shall take into consideration the benefits resulting to the owner from conducting said road, by, through, or near the property of said owners, but only in

Right of way.

Condemnation of land.

1852.

extinguishment of damages; and said jury shall reduce their verdict to writing, and shall sign the same, and it shall be returned by the sheriff to the clerk of his county, and by such clerk shall be filed in his office, and shall be confirmed by the court of said county, at its next session, if no sufficient cause to the contrary be shown, and, when so confirmed, shall be recorded by said clerk, at the expense of said company; but if set aside, the court may direct another inquisition to be taken, in the same manner as above prescribed; and such inquisition shall describe the property taken, or the bounds of the land condemned, and the duration of interest in the same, valued for the company; and such valuation, when tendered or paid to the owner or owners of said property, or his, her, or their legal representatives, or to the clerk of the county in which said inquest is held, for their use, when said owners, &c., do not reside in said county, shall entitle said company to the estate, and interest in the same, thus valued, as fully as if it had been conveyed to it by the owner or owners of the same; and the valuation of the same, if not received when tendered, may, at any time thereafter, be received from the company, without costs, by the owner or owners, his or their legal representatives or heirs.

May intersect
other roads.

§ 16. That whenever, in the construction of said road or roads, it shall be necessary to intersect any other established road or way, it shall be the duty of said president and directors so to construct said road across such road or way as not to impede the passage of persons or property along the same; or when it shall be necessary to pass through the lands of any person, it shall, also, be their duty to provide for such person proper wagon ways across said railroad, from one part of the land to the other; and if said company shall fail to provide proper wagon ways across said road, as provided in this section, it shall be lawful for any person to sue said company, and be entitled to such damages as a jury may think him or her entitled to for such neglect.

May take ma-
terials.

§ 17. That whenever it shall be necessary for said company to have, use, or occupy any land, materials, or other property, in order to the construction or repair of any part of said road or roads, or their works or necessary buildings, the president and directors of said company, or their agents, or those contracting with them for working or repairing the same, may immediately take and use the same, they having first caused the property wanted to be viewed by a jury (formed in the manner herein before prescribed); and that it shall not be necessary, after such view, in order to the use and occupation of the same, to wait the issue of the proceedings upon such view; and the inquest of the jury, after the payment or tender of such valuation, shall be a bar to all actions for taking and using such property,

whether begun before or after such confirmation or payment of said valuation.

1852.

§ 18. That the said president and directors shall have power to purchase, with the funds of said company, and place on any railroads constructed by them, under this act, all machines, wagons, vehicles, or carriages of any kind, which they may deem proper for the purposes of transportation on this road; and that they shall have the power to charge for tolls and the transportation of persons, merchandise, and property of any kind whatever, transported along said railway, any sum not exceeding the following rates, to-wit: on all goods, merchandise, or property, for every one hundred pounds, transported over twenty miles and under fifty miles, three and a half mills for each mile; and for persons, and every species of live stock, and every other description of freight and property, they shall charge no higher rate than is authorized to be charged on the railway from Lexington to Frankfort; that it shall not be lawful for any other company, or any person or persons, to travel upon or use any of the roads of the said company, or to transport persons or property thereon, without the license and permission of the president and directors thereof; and that the said road or roads, with all their works, improvements, or profits, and all the carriages, vehicles, and machinery for transportation used thereon, all other species of property thereunto belonging, are hereby vested in said company, incorporated by this act, and their successors forever; and shall never be taxed beyond the rate of tax imposed upon real estate, estimated upon the prime cost of the proposed works.

May purchase and run cars.

Rates of tolls.

May be taxed by the state.

§ 19. That the said president and directors shall, annually or semi-annually, declare and make such dividends as they may deem proper of the net profits arising from the resources of said company, after deducting the necessary current and probable contingent expenses; and that they shall divide the same among the stockholders of said company in proportion to their respective shares.

Dividends.

§ 20. That if any person or persons shall willfully, by any means whatsoever, injure, impair, or destroy any part of any railroads or road constructed for said company under this act, or any of their works, buildings, carriages, or vehicles, or machinery, such person or persons shall, for every such offense, forfeit and pay to the said company a sum not exceeding five hundred dollars, recoverable, in the name of said company, by an action of debt in the circuit court of the county wherein such offense shall have been committed, and shall also be subject to indictment by the grand jury of said county, in said court, and, upon conviction of such offense, be imprisoned in the jail thereof, and in the penitentiary, not less than six months nor more than four years, in the discretion of the jury.

Penalties for obstructing road.

1852.

When they may
charge tolls.

§ 21. That so soon as the company shall have completed five miles of their route, they may commence to prosecute their business, upon the terms and upon the stipulations herein provided, as though the whole work was completed.

County courts
may subscribe.

§ 22. That the county courts of the several counties through which said road shall pass on its final location, and of all other counties, may and shall have power, for and on behalf of their respective counties, to subscribe stock in said road, to be levied on the taxable property of said counties, and collected as revenues of the state: *Provided*, that a majority of all the qualified voters in each of the counties respectively, at an August election at the various precincts in their respective counties, shall vote in favor thereof; and the county courts are hereby authorized to direct and prescribe in what manner the question may be submitted to the people of the said counties; and if the day of voting be on any other than that for the election of public officers, it shall be advertised in a newspaper, proclaimed at the court house door on two successive court days, and a notice posted up at each of the places of voting in the county; and the collecting officer shall have the same commission for collecting such levy as is allowed for collecting other revenue.

Vote on sub-
scribing.

Terminals to
be fixed.

§ 23. That the company hereby established shall fix the terminus of the road herein contemplated to be constructed, at any point on the line between Kentucky and Virginia that to them may seem most proper and expedient.

May fix termi-
nus with other
companies, in
which case com-
panies to be
amalgamated.

§ 24. That the company hereby created shall have power to contract with a company which may be formed to construct a railroad from the line between the states of Virginia and Kentucky, to intersect the Virginia and Tennessee road, or to have some other terminus, as the said other company may deem expedient, upon terms which may be agreed upon by the president and directors of the two road companies, to an amalgamation of the stock of the said companies; and from thenceforward, as one company, under the name and style of the Kentucky and Virginia railroad company, and be vested with all the powers not inconsistent with the laws of the United States or of this state, and with the provisions of their respective charters.

Stock may be
subscribed in
real estate, &c.

§ 24. That any real estate and other property, subject to taxation, may be subscribed as stock in said company: *Provided*, that the commissioners, or a majority of them, shall deem expedient.

Approved January 9, 1852.

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CHAPTER 431.

1852.

AN ACT for the benefit of Jarvis Jackson, of Laurel county.

WHEREAS, it is represented to the present general assembly of the commonwealth of Kentucky, that Jarvis Jackson, of Laurel county, as the agent of the Laurel county court, under an order of said court, May term 1839, has spent considerable time, and expended various sums of money in attending to business for said court, in defending law suits instituted against said court for part of its seminary lands west of the Tennessee river; and whereas, it is further represented that said county court, some time since, obtained judgment against said Jackson, as sheriff, for balances due the said county for collections made by said Jackson's deputies, and also as security for Thomas Jones, and that said Jackson's land has been sold to satisfy said judgment. Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the judge of the Laurel county court be and he is hereby authorized and required to ascertain, as near as may be, amounts advanced by said Jackson for expenses and fees, and a reasonable compensation for his services, and allow said Jackson a credit on his indebtedness to the court for the same, with interest from the date of said expenditure.

§ 2. That should the judge of the Laurel county court fail or refuse to comply with the requisitions of the first section of this act, that it shall be lawful for said Jackson to file a bill in chancery against said court, in the Laurel circuit court, at its next term; and said court shall order a credit or set-off, as provided for in said first section, for as much as he may show himself entitled to.

Approved January 9, 1852.

CHAPTER 432.

AN ACT to amend the charter of the town of Bowlinggreen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That in all prosecutions under an act, entitled, an act concerning the town of Bowlinggreen, approved February 29, 1836, and the amendments thereto, for breaches of the peace or violations of the ordinances of said town, whenever the party charged is found guilty by the verdict of a jury, the sum of two dollars and fifty cents, as an attorney's fee, shall be taxed as costs, and collected by the marshal, and paid over as other moneys collected by him are required to be paid.

Approved January 9, 1852.

1852.

CHAPTER 433.

AN ACT changing the County and Quarterly Courts of Perry and Letcher counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county courts of Perry county be held on the first Monday in each month, and the county courts of Letcher county be held on the second Monday in each month, and the quarterly courts of Perry and Letcher counties be held in the same weeks that county courts are held in said counties, and in the same months in which they now hold said quarterly courts.

Approved January 9, 1852.

CHAPTER 434.

AN ACT for the benefit of the Bowlinggreen and Tennessee Railroad Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the provisions of an act, approved the seventh day of January, 1852, entitled, "an act to amend an act, entitled, an act to charter the Louisville and Nashville railroad company, and the act amending the same," approved March 20, 1851, be and the same are hereby extended to the Bowlinggreen and Tennessee railroad company, so far as the same may be proper and applicable; and that the stock taken in the Bowlinggreen and Tennessee railroad company may be transferred to the Louisville and Nashville railroad company.

Approved January 9, 1852.

CHAPTER 435.

AN ACT to incorporate Compass Lodge, No. 223, of Free and Accepted Masons.

Corporate name
and powers.

§ 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the members of Compass lodge, No. 223, of ancient free and accepted york masons, at Louisville, are hereby created a body politic and corporate, by the name and style of Compass lodge, No. 223, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, of suing and being sued, of purchasing and holding all such real and personal estate as may be acquired for the use, benefit, and accommodation of said lodge; to receive all necessary conveyances, to sell and to convey all such real and personal estate as they now have or may hereafter acquire: Provided, the amounts vested in real estate, exclusive of

buildings thereon, shall at no time exceed twenty thousand dollars.

1852.

§ 2. The management of the concerns of said corporation are confided to E. S. Craig, master, and W. F. B. Hastings, senior warden, and Henry F. Foeidic, junior warden of said lodge, and their successors in office, who shall have full power to make all contracts pertaining to the real or personal estate thereof, either by purchase or otherwise; and their acts shall be binding upon said lodge, when made in pursuance of the instruction of a majority of the lodge, or of its rules and by-laws; and service of process on any one of said officers shall be sufficient notice to said corporation. The said lodge may, at any time, pass such by-laws, rules, and regulations, not inconsistent with the constitution and laws of this state, as may be necessary for the protection, management, and safe keeping of the property of said lodge.

Election of trustees.

May make by-laws, &c.

§ 3. The legislature reserves the right to amend, modify, or repeal this act, and the repeal shall not deprive the said lodge of its property and effects.

Repealing power reserved.

Approved January 9, 1852.

CHAPTER 436.

AN ACT authorizing the establishing of a road in Morgan county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county court of Morgan county be and they are hereby authorized and directed to establish a road through the lands of Wm. H. Burns, in said county, commencing at the south end of main street, in the town of West Liberty, in said county, and up Licking river and the Long branch, agreeably to a report made by viewers appointed by the Morgan county court, and returned to said court, upon the said Wm. H. Burns appearing in open court, assenting to the establishing of said road through his land; and for and in consideration, said Wm. H. Burns consenting to the establishing said road through his land, the said county court are hereby authorized and directed to reduce the width of said main street from sixty to forty-eight feet, from the public square in said town to the limits of the same; and said county court of Morgan county are hereby authorized and directed to convey to said Wm. H. Burns twelve feet of said street, cut off on the side next to his residence, and for and in consideration of said Burns assenting to said road passing through his land. The county court shall cause to be erected along said road all good needful fences to protect the farm of said Burns.

Approved January 9, 1852.

1852.

CHAPTER 437.

AN ACT to amend an act, entitled, an act to incorporate the Nashville and Cincinnati Railroad Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the third section of an act, entitled, "an act to incorporate the Nashville and Cincinnati railroad company," as requires the vote for the purposes and in the counties therein mentioned, to be held at a regular August election, be and the same is hereby so amended as to authorize such vote to be taken upon application by the president and directors of said company to the respective county courts, and a notice of at least thirty days being given, at any time between the first of June and the last of October of the year in which such vote is taken: *Provided*, that when such vote is to be taken, it shall be the duty of the county court for the county in which it is proposed to take such vote, to publish the amount of stock proposed to be subscribed, and the terms of such proposed subscription.

Approved January 9, 1852.

CHAPTER 438.

AN ACT creating a new district in the county of Pike.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be an additional magistrates' and constable's district in the county of Pike, with the following boundary, and shall be styled district No. 8: beginning at the mouth of Raccoon creek, and from that point up the Bard hollow, near B. Johnston's house, to the head of the same; thence with the dividing ridge between the waters of Raccoon creek and the waters of John's creek to the line of the river district, and from the point named, which is the mouth of Raccoon creek, up the hill field ridge, with the junctions of the same to the head waters of Russell's fork; thence with the dividing ridge between said Russell's and Johnston's creek to the line of Tug river and pond precinct; thence around with the old lines of the John's creek precinct, including all the head of John's creek and its waters, and all the inhabitants of Raccoon creek and its waters, in the new district.

§ 2. That the place of voting in the proposed new district shall be at the house of John Williamson, Jr.; and that the county judge shall have power to order an election for district and other county officers, as other elections are conducted.

Approved January 9, 1852.

LAWS OF KENTUCKY.

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CHAPTER 439.

1852.

AN ACT to allow the Guardians of the Louisville City Alms House to apprentice certain poor children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the guardians of the Louisville city alms house, from time to time, and under by-laws to be approved by the general council of the city of Louisville, be and they are hereby authorized and empowered to bind out as apprentices to some trade or calling, until the age of twenty-one, if males, and until the age of eighteen, if females, such children as may receive public support in the said alms house, notwithstanding any claim or interference by their parents or friends, who may have allowed them so to become chargeable on the public; and such apprenticeship shall contain the covenants, and be enforced in like manner by the said guardians, as is provided by law in like cases of apprenticing by the county courts.

Approved January 9, 1852.

CHAPTER 440.

AN ACT authorizing the county Judge of Oldham to alter Lagrange district.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county judge of Oldham county be and he is hereby authorized and directed, at any county court preceding the court to be held in May, 1852, so to alter and change the boundaries of Lagrange district, as to include therein Benjamin Rounder, Michael Coons, E. Clore, D. Yager, Smith Yager, Augustus Smith, John Gibson, Jonathan Gibson, William Foxworthy, Jacob Keiser, Laforce Maddox, Monroe Hancock, John Swift, and Jackson Castlin, upon a petition of said persons, or a majority of them.

Approved January 9, 1852.

CHAPTER 441.

AN ACT to incorporate the town of Kiddville, in the county of Clarke.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the town of Kiddville, in the county of Clarke, with the following limits, to-wit: beginning at the southwest corner of B. W. Kidd's farm, and thence in a right line eastward, so as to include said Kidd's dwelling house; thence south so as to include A. H. Anderson's dwelling; thence in a line westward, including J. F. Elliott's premises; thence from said Elliott's southwest corner to southwest corner of Isaac Jacobs' lot; thence northward, embracing Wyatt Hulett's dwelling, to the be-

Boundaries.

1852.

Trustees; term
of office.

ginning, is hereby established; and that, hereafter, the fiscal, prudential, and municipal concerns of said town be invested in five trustees, who shall be elected annually on the first Saturday in March, by the free white male citizens over twenty-one years of age, and who have resided in said town six months previous to said election; said trustees shall hold their office for the term of one year, and until their successors are elected and qualified; the said trustees, before they enter upon the duties of their office, shall take an oath before some justice of the peace; that they will faithfully, and without favor or affection, discharge the duties of trustees while they continue in office; that in case a vacancy shall take place between the times of holding said elections, the board shall have power to fill said vacancy; no person shall be a trustee of said town who is not a citizen thereof, and who has not been a resident thereof at least twelve months previous to his election.

Vacancies—
how filled.Corporate name
and powers.

§ 2. That said trustees, and their successors in office, shall be a body politic and corporate, to be known by the name and style of the board of trustees of the town of Kiddville, and, by that name, be capable, in law, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, of defending and being defended, in all courts and places; and may have and use a common seal, and do all things which a town body politic and corporate may lawfully do.

Meetings.

§ 3. That said trustees may, from time to time, fix and regulate, by their by-laws, the times and places of the regular meetings, and, also, prescribe the mode in which special meetings shall be had; and may inflict a penalty not exceeding two dollars on any member for non-attendance at such meetings, to be applied to the incidental expenses of the meetings of the board; and may appoint one of their own members president of the board.

May hold real
estate.

§ 4. That said board of trustees, and their successors, shall have power to purchase and accept, by donation or devise, any estate, real or personal, for the useful or ornamental purposes of said town; and may use, appropriate, lease, or sell the real, personal, or mixed estate that may be so taken and received by them, upon such terms as they may deem expedient: *Provided, however,* that no sale or lease shall be made of any real estate, unless the same be sanctioned at the same meeting, by the vote of four trustees, and whose vote shall be recorded in full upon the records, giving the individual names of those who voted for, and those who voted against it.

May maintain
suits.

§ 5. That the said board of trustees, and their successors in office, shall have full power and authority to maintain and carry into execution and judgment any action or ac-

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tions for trespass, for any injury done to any property, real or personal, or mixed, belonging to said town; and may maintain and carry into judgment and execution, in like manner, any other appropriate action or actions for the recovery of the same, or damages for the detention, taking, injury, or destruction of the same.

§ 6. That the board of trustees shall have power and authority to clear the streets, alleys, sidewalks and pass-ways in said town of all obstructions; to erect and sink cisterns, wells, and pumps; and to keep open all springs in said town, and declare them free by a verdict of jury, to be impaneled before some justice of the peace of said county, except such springs as belong to private persons, or upon private property; they shall also have the power and authority to preserve and protect, free from incumbrance, all the public grounds and improvements in said town; they shall have full power and authority to remove, and cause to be removed and abated, any nuisance or nuisances in said town, and to regulate the storage or removal of any combustible or unwholesome material that may injure the health, or tend to diminish the comfort of the citizens, or the security of their property. They shall also have power and authority to cause any chimneys, flues, stove pipes, or fire places, that in their judgment may threaten the security of property, to be changed and repaired, so as to remove the cause or danger of insecurity. They shall also have power and authority to cause the owners or occupiers of property, fronting on streets or alleys, to keep the streets or alleys in front of them clear and free from filth, and to pave and grade the same with good material; and in all cases enumerated in this section, when the persons who should do so fail or refuse to obey and perform the directions given in relation thereto by the board of trustees, the said trustees may have their orders executed at their own expense, and all costs and charges thus incurred shall be paid by those who should have complied with the directions of the board in relation thereto, and may be recovered by the board of trustees, by a warrant for the same, before any justice of the peace for the county aforesaid, or by a suit in the Clarke circuit court, as the case may be.

May regulate
the streets, &c.;
municipal regu-
lations.

§ 7. That the said trustees may cause the said town, and the grounds belonging to the town, to be ornamented in such manner as they may deem expedient, with fencing, trees, and shrubs; and the necessary protection of said trees and shrubs; and that if any person or persons shall willfully injure said trees, fencing and shrubs, or any one part thereof, or the boxing or protection of the same, each person, so offending, shall, for every such offense, be subject to a fine of not less than one nor more than ten dollars, to be recovered by the said trustees, in their name and

May improve
public grounds.

1852.

May levy and
collect a tax.

for their benefit, by warrant before any justice of the peace having jurisdiction of the same.

§ 8. That the board of trustees of the town of Kiddville may, at any meeting of said board at which they levy the tax for said town, in addition thereto, for the same year, levy and collect a tax on all real estate within said town, not exceeding seven cents on the one hundred dollars worth of property, the same to be appropriated to paving, grading, or McAdamizing any sidewalk, street, or alley in said town, which, in the opinion of said board, may, for the comfort or improvement of said town, require such grading, paving, or McAdamizing.

May purchase
burying ground,
and maintain a
school.

§ 9. That the said trustees shall be authorized to purchase and hold any quantity of ground, of not more than five acres, to be within two miles of the limits of Kiddville, for the purpose of a burying ground, and may make all needful and necessary arrangements for the use and protection of the same. They shall have full power and authority to purchase and erect the necessary ground and buildings for a free school or schools in said town, and make all necessary regulations in relation to the same, and the government and carrying on of the same.

Appoint other
officers, and
take bonds.

§ 10. That the board of trustees of the town of Kiddville shall have the power to appoint, annually, a clerk, assessor, treasurer, and such other officers for said town as may be necessary to carry into effect the laws, by-laws, rules, and regulations made for the government and welfare of said town, and the citizens thereof; and may prescribe the respective duties, and affix and pay the respective salaries of said officers; they shall require bond, with sufficient security, in adequate penalties, from all officers appointed by them, which bond shall be made payable to the board of trustees of said town of Kiddville, and may contain any stipulation and covenant that said trustees may think proper to require and receive; and, when executed, shall operate as a mortgage and lien upon all the real and personal estate of said officers and their securities, respectively, until all the conditions of said bond are respectively complied with; and that for a breach or violation of the condition or conditions of any such bond or bonds, the trustees may sue and recover, and have the appropriate judgment and execution, by action of covenant or debt, in the Clarke circuit court, against the parties, or either of them, to such bonds, respectively; that said officers and their sureties shall be liable for the prompt payment of all sums of money that shall come to their hands; and they and their securities, or either of them, shall be liable to a judgment in the Clarke circuit court, in favor of the board of trustees, or any person or persons, entitled to money collected by said officers, in like manner, and subject to the same penalties that sheriffs and their sureties are; the said board shall have full

power and authority, at any time, to remove any of said officers, or their deputies, and appoint others in their stead; and when any vacancy occurs by the death, removal, or resignation of the chairman of the board, or of any of the officers, they shall, in like manner, have full power and authority to appoint others in their stead.

§ 11. That the trustees shall appoint, from among the citizens of said town, an assessor, who shall, before he enters upon the duties of his office, take an oath duly and impartially to discharge the duties thereof; whose duty it shall be to call upon all taxable persons in said town, and make out a true list of their taxable property, with the value thereof, which list shall be made upon oath of the party, to be administered by the assessor. The assessor's list shall be taken so as to include all the real estate in said town, and all the free males over twenty-one years of age, except those now exempt by law, and all slaves over sixteen years of age, and all slaves with their value, with all other species of personal property, including all articles of property now subject to taxation for revenue purposes, except spectacles, watches, and pianos; if any person or persons shall refuse to give in a list of his or her property, or be absent, the assessor shall make out a list from the best information he can procure; and if there is any real estate in said town, the owner or owners whereof may be unknown, it shall be the duty of the assessor to report that fact specially on his list, together with the value of the property. He shall, on or before the first day of May of the year —, and on or before the fifteenth day of March in every year thereafter, annually, complete and return the list, so taken, to the board of trustees; upon the return of the list by the assessor, the trustees shall give notice that any person or persons who may feel themselves aggrieved by the valuation of the assessor, may appear before them, at a stated meeting to be held for that purpose, on or before the twentieth day of May of the year —, and on or before the fifteenth day of April in each succeeding year, with their evidence, to show the true valuation of such property, and the trustees, on such proof being made to them, may change such valuation.

§ 12. That said board of trustees may annually lay and levy the taxes for the current year, and direct the time within which the same shall be paid, at the first meeting of the board after the assessor returns his list; or if any thing shall prevent the levy and tax from being then made and levied, the same may be done at the next meeting of the board.

§ 13. That after the fifteenth day in June of the year —, and after the fifteenth day of May of each succeeding year, the clerk of the board of trustees shall receive, file, and preserve the assessor's list, with any alteration or cor-

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Assessor.

When taxes to be levied.

Duty of clerk of board.

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Treasurer to
execute bond;
his duties.

rection that may have been made by the board of trustees ; and the list or copies thereof, attested by said clerk, shall be received in evidence in any court of justice, and shall be *prima facie* evidence that all the laws in relation to the fixing and adjustment of the taxes have been regularly complied with by the board of trustees and its officers.

§ 14. That the treasurer appointed by the board of trustees, shall take an oath faithfully and honestly to discharge the duties of his office, and shall execute bond with good security, to the satisfaction of the trustees, which bond shall be conditioned to pay over all moneys which may come to his hands, as treasurer, to the trustees or order, and to perform all duties imposed on him by law, and may contain such other stipulations as the board may think proper to require. The treasurer shall receive and receipt for all moneys paid or received ; he shall receive and receipt for all moneys paid to the board of trustees ; he shall keep a fair record of all the fiscal concerns of the board, and record, in order, the appropriations of said board, as certified to him by the clerk, and pay the same according to their order ; he shall pay no moneys without receiving a copy of the resolutions of the board of trustees making such appropriation, and he shall file all received by him, for settlement, by resolutions of the board ; his book shall at all times be open to the inspection of persons having claims upon the board, upon reasonable notice ; he shall, on or before the 20th day of July of the year —, and on or before the 20th day of July in each succeeding year, report to the clerk of the board a true list of all the moneys received by him, with a list of all the moneys and dues that remain unpaid at that time. He shall be allowed such compensation for his services as the board of trustees may direct, not exceeding five per cent. on all moneys received and paid out by him, under the order of the board to that effect, attend and report to the same the condition of the treasury ; and shall at all times be ready for a settlement.

Duty of clerk
of the board.

§ 15. That the clerk, appointed by said trustees, shall take an oath faithfully and impartially to discharge the duties of his said office ; and shall execute bond, with such conditions and such security as shall be required by the board. It shall be his duty to preserve the books, papers, records, and every thing belonging to his office, and deliver the same to his successor in office ; he shall keep a regular journal of the proceedings of the board, with a regular account of the fiscal concerns thereof. He shall file and preserve the poll books, annually, and shall record all the acts, resolutions, and orders of the board ; he shall take all bonds, agreements, and records, and preserve the same, and all contracts and agreements made between the board of trustees and other persons ; he shall copy and sign all

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resolutions, orders, claims, and allowances, when required to do so by persons having claims against the board; he shall file and preserve, annually, the assessor's book; he shall make out a fair list of the persons and property liable to taxes, with the amount due by said persons or property, in alphabetical order, and place the same in the hands of the treasurer on or before the 15th day of April annually; and he shall file and preserve the report of the treasurer, and shall make out and place in the hands of the collector, on or before said 15th day of April, annually, a list of the persons and property by whom or on which taxes and dues to the town remain unpaid, and the amount of the same, respectively; he shall have full power to administer oaths in all cases where oaths may be necessary; his compensation may be fixed and allowed by the board.

§ 16. That the board of trustees of the town of Kiddville shall have power and authority to assess, levy, and collect, annually, a tax on all real and personal estate within the limits of said town, not to exceed fifteen cents on the one hundred dollars worth of property; also, to levy and collect a poll tax, not exceeding one dollar, on all persons and slaves now subject to county levy; they may tax all theatrical performances, shows, and exhibitions whatever, in any sum not exceeding fifteen dollars for such exhibitions, shows, or performance, on any one day, within the town of Kiddville, or within one mile of the same. They shall have power and authority to tax all auctioneers in a sum not exceeding five per cent. for all goods, wares, and merchandise, and articles sold to bidders within said town, unless by permission of said trustees, and except property sold by citizens of their own manufacture, or by order of court, or by execution, or by executors, administrators, or guardians; and shall have a lien on the article sold, or to be sold, for said tax, until the same is paid, or the person selling the same takes out license for that purpose.

Board may levy taxes, and tax shows, &c.

§ 17. That said board of trustees shall have all the rights and power to collect the taxes of said town, as is now given by law for the collection of the state revenue and county levy.

§ 18. That the said trustees shall exercise and possess all the powers and privileges which, by the general laws of the land in relation to towns, are granted to trustees; and shall have full power and authority to make all the necessary by-laws, rules, and regulations for the purpose of carrying into effect the powers granted by this act, and, also, such as may be necessary for the comfort, cleanliness, good order, and security of said town, and the citizens thereof, and may enforce the same by adequate penalties, to be recovered in their name before some justice of the peace or circuit court of the county of Clarke, as the case may require: *Provided*, the same are not contrary to the constitu-

Trustees; their powers.

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tion or laws of the land. No suit shall be instituted against the trustees, unless the same be instituted in the county of Clarke; and service of process on the chairman of the board shall be sufficient.

§ 19. All laws, acts, or parts of acts, coming within the provisions of this act, are hereby repealed; this act shall take effect and be in force from the passage thereof.

Right to amend
reserved.

§ 20. That the legislature reserves the right to alter, amend, or repeal this charter, whenever they may deem it necessary and proper so to do.

Approved January 9, 1852.

CHAPTER 442.

AN ACT to incorporate the Newport and Maysville Railroad Company.

Commissioners.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James Taylor, H. H. Mayo, Jacob Hawthorn, George Hodge, Robert Air, and Isaiah S. Hayman, of the city of Newport; William S. Allen, A. M. January, Hamilton Gray, Thomas B. Stevenson, C. Shultz, John A. Keith, Langhorn Tabb, and John Reynolds, of the county of Mason; George Doniphan and George Green, of the county of Bracken; H. H. Southgate, H. H. Goodman, Henry Vallette, George W. Jones, and Robert Chalfant, of the city of Cincinnati, be and they are hereby appointed commissioners, under the direction of whom, or any three of them, subscriptions may be received to the capital stock of the Newport and Maysville railroad company, hereby incorporated; and they may cause books to be opened, at such times and places as they may desire, for the purpose of receiving subscriptions to the capital stock of said company, after having given at least twenty days public notice of the times and places of opening the same; and after the first opening of said books, they shall continue them open for at least twenty days, and for such further time as, they deem expedient: *Provided*, that any subscription tendered at any time and place other than advertised by said commissioners, if accepted by them, shall be as valid against the party subscribing as if received at the time and place advertised; and if any of said commissioners shall die, resign, or refuse to act, another may be appointed in his stead by the remaining commissioners, or a majority of them, of the county for which said commissioners, not acting, was appointed.

Opening of
books.

Capital stock.

§ 2. That the capital stock of said Newport and Maysville railroad company shall be one million of dollars, in shares of fifty dollars each, which may be subscribed for by any individual or corporation; and so soon as five hundred shares of said capital stock shall be subscribed, the subscribers of said stock, their successors and assigns, shall

be and they are hereby declared to be incorporated into a company, by the name of the Newport and Maysville railroad company, and, by that name, shall be capable of purchasing, selling, holding, leasing, and conveying any real estate, not exceeding two thousand acres, and real, personal, and mixed estate, so far as the same shall be necessary for the purpose of their incorporation, and no further; and shall have perpetual succession, and, by said corporate name, shall sue and be sued, and may have and use a common seal, which they shall have power to alter or renew at pleasure; and shall have, enjoy, and exercise all the powers, rights, and privileges which other corporate bodies may lawfully do.

§ 3. That at every subscription of stock there shall be paid to the commissioners the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such installments and at such times as may be required by the board of directors of said company: *Provided*, that no payment shall be demanded until at least thirty days public notice of such demand shall have been given by a publication in one or more of the newspapers published in Newport and Maysville; and if any subscriber shall fail or neglect to pay any installment or part of said subscription, demanded agreeably to the provisions of this section, the same may be recovered by action, in the name of said corporation, against such defaulting subscriber, before any tribunal having jurisdiction of such case; and in all such actions publication, as directed in this section, shall be the only demand necessary to be proved; or in case such failure or neglect to pay any installment or part of said subscription, demanded according to the provisions of this section, shall continue for the space of sixty days next after the same shall become due and payable, the directors may, in their discretion, order that the same shall be forfeited to the company, and they may also sell it for the benefit of the company.

§ 4. That when five thousand shares of capital stock shall have been subscribed, said commissioners, or a majority, shall call a general meeting of the subscribers, at such time and place as they may appoint, and shall give twenty days notice thereof in some one or more of the newspapers published at Newport and Maysville; and at such meeting the commissioners shall lay the subscription books before the subscribers then and there present, and thereupon the subscribers, or a majority of those present, shall have the power to elect from among the stockholders seven directors to manage the affairs of said company; and these seven directors, or a majority of them, shall have the power to elect a president of said company, either from among the directors or stockholders; and in such election, and all other elections where stockholders are allowed to vote,

1852.

Corporate name
and powers.Payment of
subscriptions.Delinquent
subscribers.

Organization.

Election of di-
rectors.

1852.

each stockholder shall be allowed one vote for each share of stock owned by it, him, or her; and any stockholder may, in writing, depute another person to vote and act as its, his, or her proxy; and the commissioners aforesaid, present, shall appoint the judges of the first election of directors; the president and directors aforesaid shall hold their offices until their successors shall be duly elected.

Annual election. § 5. That the president and directors shall be chosen annually by the stockholders of said company, at such place as the president and directors shall designate, on the first Monday in June every year; the president and directors may fill any vacancy in their board: *Provided*, that all elections which are to be made on a particular time, if not then made, may be made in thirty days thereafter, upon notice being given.

Directors to elect other officers. § 6. That the president and directors of said company shall have power to elect a treasurer, and any other officers or agents they may deem necessary, and may require of their treasurer and other officers or agents such bond, and in such penalties as they may think proper; upon which said bond recovery may be had for a breach of the conditions thereof.

Books to be opened. § 7. That if any of the stock created by this act shall remain unsubscribed until after the election of the president and directors, the said president and directors may open books and receive subscriptions, by themselves or such agents as they may appoint, and may increase the capital stock to one million five hundred thousand dollars.

Capital stock increased. § 8. That the president and directors of said company are hereby vested with all the powers and rights necessary to the construction of a railroad from Newport to Maysville, by the nearest and most practicable route, the said route to be by them selected and determined, not exceeding sixty feet in width, with as many sets of tracks as they may deem necessary; they, their agents, engineers, &c., may enter upon, use, and excavate any land which may be wanted for the site of said road and its use, or for any other purpose necessary or useful in the construction or repair of said road, or its works and appurtenances; may take and use any earth, timber, gravel, stone, or other material which may be necessary or useful for the construction, completion, or repair of said road; and may build bridges and construct tunnels.

Corporate powers. § 9. That the president and directors of said company, or their agents, may agree with the owner of any land for the ground on which the road is to be conducted, for any earth, timber, stone, or other material which may be wanted for the construction or repair of said road; and if they cannot agree, application may be made to any justice of the peace of the county where the land lies, who shall issue his warrant, directed to the sheriff of the county, di-

Right of way.

Condemnation of land.

recting him to summon a jury, who shall meet on or near the land, to inquire of damages; and the sheriff shall administer to them an oath that they will justly and impartially fix the damage, if any, which the owner shall sustain by the use and occupation of the said property required by the company; and the said jury, in estimating such damages, shall take into consideration the benefits resulting to the owner from conducting said road by, through, or near the property of such owner. The sheriff shall return the verdict to the clerk of the county court, who shall record the same; an appeal may be taken by either party to the county court and the court of appeals; but upon the payment or tendering of the damages assessed by the jury, the company may progress with the road; and in case of the appeal being taken by the company, upon their executing bond, conditioned to pay the damages which may be assessed in favor of the owner to him, they may progress as aforesaid.

1852.

§ 10. That said company shall have the power to charge for tolls and transportation of persons and property of any kind, transported along said railway, any sum the president and directors may establish, provided the rates do not exceed those charged by the Louisville and Frankfort railroad company.

Rates of tolls

§ 11. That the said president and directors shall, annually or semi-annually, declare and make such dividend as they may deem proper of the net profits arising from the resources of said company, after deducting expenses; and that they shall divide the same among the stockholders in proportion to their respective shares.

Dividends.

§ 12. That so soon as the company shall have completed five miles of their route, they may commence and prosecute their business as though the whole work was completed.

When may charge tolls.

§ 13. That it shall be lawful for the mayor and councilmen of any city, the county courts of counties, and the trustees of towns, interested in the construction of this road, to submit the question, to be voted on by the voters in their respective jurisdictions, whether or not stock shall be subscribed in the capital stock of said railroad by the said cities, counties, or towns; and if, when the vote is thus taken, it shall appear that a majority of the qualified voters have voted for said tax, then it shall be lawful for such city, town, or county court, by their agents by them appointed, to subscribe for stock in said railroad company, to such extent as they may think proper; and the funds to pay the same shall be raised by an *ad valorem* tax on the taxable property in their respective jurisdictions; and the receipts for the payment of said tax shall entitle the holder thereof to that amount of stock in said company, and which receipt shall be assignable.

Certain corporations may subscribe stock.

1852.

Further powers
granted.

§ 14. It shall be lawful for said company to unite this road with any other railroad, with the consent of the directors of such other railroad; and it shall and may be lawful for other railroad companies, now or hereafter to be incorporated, to unite with this road, with the consent of the directors of this road; and this company shall have the right to run this railroad through the streets of any town or city on the route, and to such points in the cities of Newport and Maysville as said company may deem advantageous.

May borrow
money.

§ 15. That said company shall have power to borrow money, not exceeding the capital stock, but not to have or exercise the right or privilege of loaning money, or issuing bills or notes on banking principles.

Approved January 9, 1852.

CHAPTER 443.

AN ACT to create the offices of Police Judge and Marshal in the town of Greenville, in Muhlenburg county.

Offices of po
lice judge and
marshal.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the offices of police judge and town marshal are hereby created and established in the town of Greenville, in Muhlenburg county.

Election.

§ 2. That the said police judge and town marshal shall be elected by the qualified voters residing within the corporate limits of said town, in the following manner, to-wit: that two of the trustees of said town may, at any time after the second Monday in May, 1852, select a clerk, and, after having advertised in some public place in said town at least ten days previous thereto, proceed to hold an election for said officers; to all three of whom an oath shall be administered by some justice of the peace for Muhlenburg county, faithfully and impartially to discharge the duties of judges and clerk of said election, according to law.

How to be
conducted.

§ 3. That any one of said trustees holding said election, as judge thereof, shall have power and authority to administer an oath to any one offering to vote; and for false swearing and illegal voting, the offender shall be subject to the same punishment, and the same penalties, and be proceeded against in the same manner as are prescribed by the general laws of this commonwealth for like offenses.

Certificates of
election.

§ 4. That the officers holding said election shall make out and sign a certificate showing the result, and hand the same to the clerk of the Muhlenburg county court, who shall immediately record the same in a book to be by him procured and kept for that purpose; and said clerk shall receive such compensation therefor as is now allowed by law for similar services, to be paid out of the corporate funds of said town.

§ 5. That the clerk of said county court, so soon as he receives said certificate, shall forward, by mail, an attested copy of the same to the governor of this commonwealth; so far as the election of said police judge is concerned, who shall thereupon issue a commission to the person thus returned elected as police judge of said town, and forward the same.

1852.

Copy to be forwarded to governor.

§ 6. That said police judge, when elected and commissioned, as aforesaid, shall be a conservator of the peace throughout said county; his jurisdiction, both civil and criminal, shall be the same as that which now is or may be conferred by law on justices of the peace; he shall have power to sit as a court of inquiry in criminal cases, to grant injunctions, attachments in chancery, and writs of *habeas corpus*, and hear and determine writs of *habeas corpus*: *Provided*, that no defendant in any civil suit shall be compelled to go out of his justices' district to attend trial before said judge: *and, provided further*, that by removal out of the corporate limits of said town, said judge shall vacate his office; and in the event said office is vacated by death, removal, or resignation, then the trustees of said town may proceed, as in the second, third, and fourth sections of this act prescribed, to hold an election.

Powers of police judge.

§ 7. That the fees of said police judge shall be the same as are now or may hereafter be allowed by law to justices of the peace for like services.

Vacancy—how filled.

Fees of police judge.

§ 8. That said police judge, so soon as he receives said commission, may enter upon the duties of said office; he shall keep a faithful record of all his official acts, in the same manner as are now required by law of justices of the peace; and, for a failure herein, shall be subject to the same penalties as are now imposed by law upon justices of the peace for like offenses; and each successive judge, elected as aforesaid, shall deliver over to his successor all the official papers and records of said office; and, on failure, shall be subject to the penalties aforesaid.

His jurisdiction.

§ 9. That upon all judgments rendered by the said police judge, either party shall have the right to appeal, in the same manner that appeals are taken from judgments of justices of the peace in similar cases.

Appeals.

§ 10. That said police judge, before he enters upon the duties of said office, shall take an oath before some justice of the peace for said county, faithfully and impartially to discharge the duties of the office of police judge in the town of Greenville, according to law.

Oath of office

§ 11. That said police judge shall hold his office for the term of four years, and until his successor is elected and qualified according to law.

Term of office.

§ 12. That a certified copy of the official acts, records, and proceedings of said police judge shall be evidence,

Records to be evidence.

1852.

Marshal to take
oath and execute
bond.

and have the same effect as records of justices of the peace.

§ 13. That said town marshal, when so elected, and said certificate furnished, as aforesaid, shall, before he enters upon the duties of said office, take an oath before some justice of the peace for said county, faithfully and impartially to discharge the duties of said office of marshal, according to law; and shall also execute bond, with good security, payable to the trustees of said town, and their successors in office, to be by any two of them approved, in a sum not less than five hundred dollars, containing conditions similar to those now required by law to be contained in constables' bonds; and any person damnified by the official acts of said marshal, may sue or motion thereon before any court having jurisdiction thereof, in the name of the trustees of the town of Greenville, for his use and benefit, or may motion before said police judge of said town, in the same manner, and under the same rules that motions are made before justices of the peace against constables.

Marshal's bond
to be kept by the
county clerk.

§ 14. That the trustees of said town, so soon as said bond is executed, shall attest the same, and deliver it to the clerk of the Muhlenburg county court, who shall carefully preserve and file the same in his office; and said clerk shall give an attested copy to any person who may apply for the same; which copy, when so attested, shall have the same force and credit in all courts of justice as other records from said office are entitled to under existing laws; and the said clerk shall receive from said applicant such fees as are now allowed by law for similar services.

Marshal's du-
ties, powers and
jurisdiction.

§ 15. That said marshal shall be a conservator of the peace throughout the county; he shall have power and authority to execute all original, mesne, and final process issued by said police judge, in doing which he may go to any part of the county; and shall be governed, in the service and execution of process, by the same rules, regulations, and laws that now or may hereafter govern constables in the service and execution of process; and shall be liable for property held by virtue of a process, or for money collected, and may be proceeded against in the same manner now prescribed or which may be prescribed by law in reference to constables.

Papers to be
delivered to his
successor.

§ 16. That each successive marshal, elected as herein directed, when he goes out of office, shall deliver to his successor such official papers as may need further official action.

Term of office.

§ 17. That said marshal shall hold his office for the same term that said police judge is allowed to hold, by this act, and until his successor is elected and qualified according to law.

His fees.

§ 18. That the fees of said marshal shall be the same,

in all cases, as those now allowed by law to constables for like services.

1852.

Approved January 9, 1852.

CHAPTER 444.

AN ACT to incorporate Union Division, No. 42, Sons of Temperance.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the members of Union division, No. 42, sons of temperance, in Grant county, be and they are hereby created a body politic and corporate, by the name and style of Union division, No. 42, sons of temperance, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, of purchasing and holding all such real and personal estate as they may now have or hereafter acquire: *Provided,* the amount vested in real estate, exclusive of buildings thereon, shall not at any time exceed twenty thousand dollars.

Corporate name and powers.

§ 2. That the management of the concerns of said corporation shall be and is hereby confided to five trustees, and their successors in office, who, or a majority of whom, shall have full power and authority to make all contracts pertaining to the real or personal estate of said division.

Trustees to conduct affairs.

§ 3. That the trustees of said corporation may have and use a common seal, which they may change or alter at pleasure; and the members of said division may make by-laws, rules, and regulations touching the management and control of the real and personal estate belonging to said division, as they from time to time may choose: *Provided,* they be not inconsistent with the constitution and laws of this state.

May enact by-laws, &c.

§ 4. That James Ewing, W. J. Green, James A. Johnson, Jacob T. Brooks, and D. M. Green, be and they are hereby appointed trustees as provided in the second section hereof, and shall hold their offices until the first Saturday in December, 1852, and until their successors are elected; and it shall be the duty of the members of said division, on the first Saturday in December, 1852, and on the first Saturday in December every year thereafter, to elect five members to act as trustees for one year, and until their successors are duly elected; and service of notice or process on any two of said trustees shall be sufficient service and notice for all.

Trustees.

Term of office.

First election.

§ 5. That should said division at any time be discontinued, the property and real estate belonging thereto shall be for the use and benefit of such of its members as shall then be in good standing.

Dissolution.

— 1852.

§ 6. The general assembly hereby reserves the right to amend or repeal this act at pleasure.

Approved January 9, 1852.

CHAPTER 445.

AN ACT in relation to the Louisville and Portland Railroad.

WHEREAS, under an act, approved March 2, 1844, entitled, an act to incorporate the Louisville and Portland railroad company, a company was organized to construct said road upon terms agreed on with the Kentucky institution for the education of the blind, but have since surrendered their stock, and abandoned the undertaking. Therefore,

Powers of institution.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Kentucky institution for the education of the blind shall have all the rights and powers which are vested in them, or in the Louisville and Portland railroad company, by the said act, and by the several acts amendatory thereof, and shall have power further to manage the construction and use of said road and its appendages, either by the action of the said institution or by means of such president and directors of said railroad as may be chosen, in pursuance of a contract which they are authorized to make with any persons who may loan money or take stock in the same.

Route of road.

§ 2. That the location of said railroad may be made either on the line described in said act, or on such line as the said Kentucky institution for the education of the blind may choose, with the consent of the city authorities of Louisville, so that it shall extend between any points on or near the river above and below the falls, and within two miles thereof.

Approved January 9, 1852.

CHAPTER 446.

AN ACT to authorize the Clerks of the Nelson and Washington County Courts to cross index certain records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the respective clerks of the Nelson and Washington county courts be and they are hereby authorized to make a general cross index book, each for his own office, of all the deeds and records in their respective offices, in new and well bound books to be by them procured for that purpose; and the respective county courts of said counties are hereby authorized and required to levy such sum or sums as may be necessary to pay said clerks, respectively, for indexing said deeds and records, and for

such books as they may necessarily purchase for the afore-said purposes.

1852.

Approved January 9, 1852.

CHAPTER 447.

AN ACT allowing an additional Magistrates' and Constable's District in Pulaski County.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there is hereby established an additional magistrates' and constable's district in Pulaski county, to be known as district No. 11, to be formed out of parts of districts Nos. 4 and 6, and bounded as follows: beginning on Buck creek, at the mouth of Brush creek; thence up Brush creek, excluding Evan E. Barron, to the Rockcastle county line; thence with said line to the Lincoln and Pulaski county line; thence with said line to the Round Knob on Buck creek; thence continuing with the Lincoln line, crossing Buck creek and the Caney Fork thereof, to the Alverson road, where it crosses the Lincoln county line; thence with the Alverson road to where a road leaves the same, passing by John Eoff's; thence with said road, passing Eoff's house, to the road leading to Squire Hubble's; thence with said road to the line of district No. 5; thence with said line to Buck creek; thence down said creek to the beginning; and that the place of voting, in said district No. 11, shall be at the house of Lewis F. Nelson.

Boundaries.

§ 2. That the qualified voters in said district, on the first Monday in March, 1852, and thereafter at the same time that magistrates and constables shall be elected by law, shall elect two justices of the peace and one constable, under the same rules and regulations that magistrates and constables are now elected. The two justices of the peace and constable, who may be elected at the first election held under this act, shall hold their offices until the expiration of the terms of office the justices and constables, who were elected in May, 1851, at which time their terms of office shall expire, or when their successors are elected and qualified.

Election.

Term of office.

§ 3. It shall be the duty of the county judge of Pulaski county, at the January or February term of said county court, to appoint two suitable persons as judges, a clerk and sheriff, to hold the election provided for in this act, who shall be governed by the laws now in force in relation to elections. The sheriff shall return the poll book to the clerk's office, as in case of other elections, and the board for comparing polls shall compare the polls of said election, and return the result thereof to the secretary of state, as now required by law.

Duties of the
Pulaski county
court.

Approved January 9, 1852.

1852.

CHAPTER 448.

AN ACT to incorporate the Williamstown and Falmouth Turnpike or Plank Road Company.

Corporate name. § 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company shall be and the same is hereby created and established, under the name and style of the Williamstown and Falmouth turnpike or plank road company, for the purpose of constructing an artificial road from Williamstown, in Grant county, to Falmouth, in Pendleton county, by the way of Jno. E. Hugh's, in the last named county.

Capital stock § 2. That the capital stock of said company shall be twenty thousand dollars, to be increased or diminished as the board of directors may think best, to be divided into shares of twenty-five dollars each.

Books to be opened. § 3. That the books for the subscription of stock in said company shall be opened on the first day of April, 1852, at the following places: Williamstown, under the direction of Jas. W. Collins, Jno. James, A. Kendle, and John F. Gooch; and at Jno. E. Hugh's, under the direction of J. C. Chalfant, J. B. A. Risk, A. Riley, Asa B. Egelston, and Jno. E. Hughs; and at Falmouth, under the direction of A. Johnson, Sam. F. Swope, S. T. Hauser, Henry Bird, and William G. Woodson, or any three of them at each place, who are appointed commissioners. The commissioners at each place shall procure a book, and the subscribers to the stock of said company shall enter into the following obligation in said books, to-wit: "we, whose names are hereunto subscribed, do promise to pay to the president, directors, and company of the Williamstown and Falmouth turnpike or plank road company twenty-five dollars fore every share of stock in said company which we have set opposite to our names, in such manner and proportion, and at such times as shall be required by the president and directors of said company." The said commissioners shall give public notice of the time and place of opening the books for the subscription of stock in said company, and that the same will continue open until the amount of the capital stock be subscribed.

Organization. § 4. That so soon as one hundred and fifty shares shall be subscribed, the said commissioners, or any eight of them, shall, at such time and place as they may appoint, call a meeting of the stockholders, and hold an election for a president and five directors, who shall hold their office for one year, and until their successors shall be duly elected and qualified. The said president and directors shall, before they enter upon the duties of their offices, take an oath before some justice of the peace that they will faithfully discharge the duties of president or directors, (as the case may be,) without favor or affection, according to the best of their judgment. After being qualified, they shall

Election of directors.

May elect other officers.

1852.

appoint a treasurer, and such other officers as they may deem necessary, who shall hold his or their office for one year, and until others are appointed. The treasurer of said company shall, before entering into the duties of his office, give bond, with two sufficient securities, in the penalty of five thousand dollars, payable to the president and directors of said company, conditioned that he will faithfully discharge the duties of treasurer of said company, and that he will, when called on, pay the amount of money in his hands to the order of the president and directors, and that he will perform the duties required by him by the by-laws of said company.

§ 5. That the president and directors, when elected and qualified as aforesaid, shall be a body corporate and politic, in fact and in law, by the name and style of the Williams-town and Falmouth turnpike or plank road company; and, by the said name, shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of purchasing, taking, and holding to them, and their successors and assigns, and of selling, transferring, and conveying in fee simple, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary to them in the prosecution of their work, and to sue and be sued, plead and be impleaded, answer and defend and be defended, in courts of record, or any other place whatever, and also to have a common seal, and to do all and every other matter or thing which a body politic or corporate may lawfully do.

Corporate powers.

§ 6. That the said president and directors, upon entering upon the duties of their offices, may call upon the stockholders for the payment of any sum not exceeding five dollars on each share subscribed in said stock; and may, if deemed necessary, call for ten per cent. every sixty days, until the whole amount subscribed shall be paid; and if it shall be found that the amount of capital is not sufficient to accomplish the object of this act, the said president and directors may enlarge the same to such amount as they may consider necessary, and, for that purpose, open books for subscription in such manner as they may direct.

Calls on stock.

Capital stock may be enlarged

§ 7. That no person shall be eligible to hold any office in this company, who is not a stockholder at the time of election; and if, after an election, any officer of said company shall cease to hold stock, his office shall be considered vacant, and the remaining portion of the board shall, by appointment, fill such vacancy until the regular annual election. Every stockholder shall be allowed one vote for each share under five, and one vote for every five thereafter, and may vote in person or by proxy. A majority of the

Qualifications.

1852.

Annual report.

votes cast shall elect. The annual election for a president and directors, (after the first election, the terms of whose office shall then expire,) shall be held on the first Monday in September, at Jno. E. Hugh's, at which time the president and directors shall lay before the stockholders all the statistics of the situation of said company, and also the record of their proceedings for the preceding year.

Certificates transferable.

§ 8. That the president and directors, first chosen as aforesaid, shall deliver a certificate, signed by the president and countersigned by the treasurer, and sealed with the seal of the corporation, to each shareholder for each share by him or her subscribed and held, which certificate shall be transferable on the books of said company, in person or by attorney; but no share shall be transferred until all arrearages are paid thereon. The original certificate of the share or shares transferred shall be surrendered, and a new certificate shall be given the purchaser, who shall be entitled to all the benefits and privileges that would have accrued, as belonging to the original owner.

Meetings of directors.

§ 9. That the president may call meetings of the directors at such times and places as he may think proper; a majority of all the directors shall be necessary for the transaction of business. They shall keep a record of all their proceedings, to be entered in a book provided for that purpose, which shall be signed by the president; and in case of his absence, the directors shall elect one of their own number *pro tempore*, and they may adjourn from time to time, as they may think proper.

Right of way.

§ 10. That the president and directors shall have the power to take the consent, in writing, of any and all persons who may be so disposed, to the grant of way for the said turnpike or plank road, the use of rock and timber for building the same, without charge; which being once given, shall be binding to all intents and purposes. They may agree with and appoint surveyors, engineers, superintendents, artists, and officers, as they shall judge necessary to carry on the contemplated work; and to fix their salaries and wages; to prescribe the time, manner, and proportion in which the stockholders shall make payments on their respective shares, to carry on the said works; to draw orders on the treasurer for all moneys necessary to pay the salaries or wages of persons employed, and for the labor and material furnished; and to do all such other matters and things as, by this charter and the by-laws of the corporation, they are or shall be required to.

Notice of calls on stock; delinquency.

§ 11. That the president shall give public notice, for at least thirty days, of the amount of the call on each share of stock, and of the time of payment; and if any stockholder shall neglect or refuse to pay his proportion of the stock, for the space of thirty days after the time set for the payment thereof, every such stockholder shall, in addition to

the installments so called for, pay at the rate of one per cent. per month for every delay of such payment; and if such payment shall be delayed six months after the time set for payment, such delinquent shall forfeit such share or shares to the corporation, together with all that have been paid thereon; and the president, by order of the directors, shall sell the said share or shares at public auction, having given ten days notice: *Provided*, the same will bring the balance due on said share or shares; *And provided*, that no stockholder shall vote at any election, or be entitled to any of the rights of a member of said corporation, unless the whole amount, due and payable, as aforesaid, on the share or shares by him or her held, shall have been paid agreeably to the requisitions of the president and directors.

§ 12. That the president and directors have the right, and are hereby authorized, together with the surveyors and engineers, artists, and chain-carriers, to enter in and upon the land and inclosures, public roads and highways, in, through, and over which said intended road may be thought proper to pass, and to examine and survey the ground for the purposes here intended, and to examine the quarries, beds of stone and gravel, and other materials necessary for the completion of said road; and they shall locate the said road on the best route, according to their discretion; and they shall cause a plat of the said road to be made out and lodged with the treasurer of said company: *Provided*, they shall not be required to survey, nor have plotted, more of the said road than they have stock to complete subscribed.

Company may
enter on lands.

§ 13. That it shall be lawful for the president and directors, by and with their superintendents, engineers, artists, workmen, and laborers, with their tools and instruments, carts and wagons, and other carriages, and the beasts of draught and burden, to enter upon the lands contiguous and near to which the said road shall pass, as well as through such as it may be located, and to use such quarries and rock, timber, and other materials, as may be found necessary to complete or repair said road; to haul or convey the same from any place they may be found for the uses of the said road: *Provided*, that if the owners or agents shall not agree with the said president and directors as to the damages to which he or she may consider themselves entitled, then it shall be the duty of the said president and directors to make application to the county court of Grant or Pendleton, whichever the case may be, for a writ of *ad quod damnum* to assess the damages which may have been sustained; and the jury, in assessing damages, shall take into consideration the advantages resulting to the party claiming damages, by the establishment of said road.

May open quar-
ries, &c.

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Description of
road.When gate may
be erected.Penalties for
defrauding.Accounts to be
kept.

§ 14. That the width of grade, and rock, gravel, or plank to be put on said road, shall be left to the discretion of the president and directors; also, the elevation of said proposed road; and as soon as the company shall have completed two and a half miles of said road, they shall call on any two justices of the peace in Grant or Pendleton counties, as the case may be, who are not interested in said company, to examine the same; and if they shall believe the said road is finished in accordance with this act, they shall so certify, which certificate shall be recorded in the office of the clerk in one of the above named county courts, as aforesaid, as the case may be; then the president and directors may cause a gate to be erected across said road, and may charge half toll for the said two and a half miles completed, as above stated, at the same rate of the Eagle creek, New Liberty, Owenton, and Scott county line turnpike or plank road company: *Provided*, that no gate shall be erected within one half mile of either Williamstown or Falmouth.

§ 15. That if any person, with intent to defraud the company aforesaid, pass through any private gate or bars, or along or over any grounds or lands near to or adjoining the said road, so as purposely to avoid paying toll, or shall practice any device to defraud the just payment of the toll, by entering or traveling upon said road with any animal, or burthen wagon, or other vehicle, and avoiding the toll gate or gates, by turning out in by-paths and private ways, so as to defraud said company thereby, such person or persons, so offending, shall, for every such offense, forfeit and pay to the president and directors the sum of five dollars, recoverable before any justice of the peace, in like manner as other debts of equal amount, in the name of the president and directors aforesaid.

§ 16. That the president and directors shall keep a fair and correct account of all moneys which shall be received by them from the subscribers of said company, also, of all moneys expended by them in the prosecution of said work; and all costs, charges, and expenses of said road shall be paid and discharged, and the sum total, when ascertained, shall be entered on the books of the treasurer. The said president and directors shall, at the end of every six months, after the first portion of said road shall be completed, and every six months thereafter, make dividend of the clear profits, and pay the same to the stockholders. The dividends shall be declared on the first Monday in September, each year: *Provided*, that the dividend or net profits shall never exceed per annum on the capital stock invested in said road. The said president and directors shall cause printed bills of the rates of toll to be posted up on or near the toll gates on said road.

§ 17. That the president and directors shall erect toll

gates every five miles on the said proposed road, when duly completed, or may put up gates in proportion as the road may be finished, and may charge tolls at the same rate of the fifteenth section of the Eagle creek, New Liberty, Owenton, and Scott county line turnpike or plank road company; and that the president and directors shall take bond, with good security, from the toll gate keepers, and other persons employed by them, for the faithful discharge of the duties to them respectively committed or assigned, which bonds they may cause to be renewed whenever they may deem necessary, and shall be payable to the president, directors, and company, as aforesaid.

1852.

Rate of tolls.

§ 18. That it shall be lawful for the president and directors of the aforesaid company, for the more perfect good government of the same, to make any set of by-laws, not inconsistent with the provisions of this act and the constitution and laws of the state of Kentucky: *Provided*, nothing herein contained shall at any time prevent the legislature from altering or amending this charter.

May enact by laws.

Approved January 9, 1852.

CHAPTER 449.

AN ACT to incorporate the Lexington and Big Sandy Railroad Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all persons who shall become stockholders, pursuant to this act, in the company hereby authorized, shall be and are hereby made a body corporate, under the name of the "Lexington and Big Sandy railroad company," with power to construct and maintain a railway, with a double or single track, with such appendages as may be deemed necessary for the convenient use of the same, commencing at any eligible point in or near the city of Lexington, in Fayette county, thence by the most practicable route to the mouth of Big Sandy.

Corporate name

§ 2. The capital stock of said company shall be one million of dollars, to be increased if necessary, to complete the road, and purchase the necessary depots at each end, and along the line of the road; which capital stock shall be divided into shares of fifty dollars each, and be deemed personal property.

Capital stock.

§ 3. That Robert Wickliffe, Thomas B. Megowan, D. C. Payne, Jacob Hughes, and Thomas Hughes, of Fayette county; Joseph H. Richard, A. Trumbo, John W. Barnes; M. R. Conner, and John W. Richards, of Bath county; B. J. Peters, W. H. Smith, Peter Everett, Joseph Bondurant, and Burwell S. Tipton, of Montgomery county; George W. Crawford, R. G. Carter, Jackson B. Ward, John N. Hord, and D. K. Wies, of Carter county; William Hampton, John Culver, William T. Nicholls, William Geiger, and

Commissioners.

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Hugh Means, of Greenup county, shall be commissioners for receiving subscriptions to the capital stock of the corporation, agreeably to the provisions of this act.

Books to be opened; notice thereof.

§ 4. It shall be the duty of said commissioners, or any three of them, within twelve months after the passage of this act, to give notice in one or more papers in Lexington and Mountsterling, and in such other newspapers or manner as may be deemed proper, once in a week for three weeks in succession, of the time and place of opening books for the subscription to said stock; and they shall open books at all such places as they may deem fit; and at each and all places specified, one or more of said commissioners shall attend, on the day fixed, and for three or more days successively, and during at least six hours of each day, shall continue to receive subscriptions to the capital stock of said company, from all persons or companies who will subscribe thereto, in conformity with the provisions of this act.

How payments to be secured.

§ 5. Each subscriber, at the time he subscribes, shall pay to the said commissioners, or to their agents appointed to receive such subscription, either in money or a note, negotiable and payable at some bank at sixty days date or longer, at the option of said commissioners or their agents, the sum of two dollars on every share subscribed by him; and the residue thereof shall be paid in such installments and at such times as may be required by the president and directors of said company.

When books to be closed.

§ 6. If, at the expiration of the time mentioned in the fourth section of this act, (viz: three days,) it shall appear that one hundred thousand dollars, or more, shall have been subscribed to the capital stock of the corporation, or as soon thereafter as one hundred thousand dollars, or upwards shall have been subscribed to the capital stock of said corporation, the books shall be closed.

Election of directors.

§ 7. As soon as may be, after closing the books, the commissioners shall give notice of the time and place at which a meeting of the stockholders will be held for the choice of directors; such notice shall be published in one or more papers of general circulation, as may be along the line or route of said road. At the time and place appointed for such election, the commissioners, or three or more of them, shall attend and lay the subscription books before the subscribers then and there present; and thereupon the said subscribers, or a majority of them, then present, in person or by proxy, shall, from among the stockholders, elect six directors, by ballot, to manage the affairs of the company; and those six directors, or a majority of them shall have the power of electing a president of said company, either from among the directors or any other stockholder, and of allowing him such compensation for his services as they may deem proper; and that in said election, and on all

Directors to choose president

1852.

other occasions whereon a vote of the stockholders of said company is to be taken, each stockholder shall be allowed one vote for every share owned by him, her, or it; and every stockholder may, in writing, depute any other person to vote for him, her, or it, as his, her, or its proxy; and the commissioners aforesaid, or any three or more of them, shall be judges of the said first election of directors. All subsequent elections shall be conducted in the manner prescribed by the by-laws of said corporation.

§ 8. In all elections by the stockholders, a majority of the shares voted shall determine the choice.

§ 9. The directors shall hold their offices for one year, and until others shall be elected in their stead; they shall appoint a president, as directed in section seven, and some suitable person as secretary of the corporation; they shall, moreover, appoint all such officers and agents as the convenience of the company may require.

§ 10. The directors shall have power to cause all necessary examinations and surveys of the route for said railroad to be made, and shall select the route on which said road shall be constructed. But if said directors, after having selected a route for said railway, find any obstacle to continuing said location, either by the difficulty of construction or procuring right of way at reasonable cost, or whenever a cheaper or better route can be had, they shall have authority to vary the route and change the location.

§ 11. The corporation is hereby empowered to purchase, receive, and hold such real estate as may be necessary and convenient in accomplishing the object for which the corporation is granted; and may, by their agents, engineers, and surveyors, enter upon such route, place or places selected, as aforesaid, by their directors, as the line whereon to construct said railroad; and it shall be lawful for said corporation to enter upon and take possession of and use all such lands and real estate as may be necessary for the construction and maintenance of said railroad, and the accommodations requisite to, and appertaining unto them; and may also receive, hold, and take all such voluntary grants and donations of lands and real estate as may be made to said corporation, to aid in the construction, maintenance, or accommodation of said road or ways; but all lands or real estate, thus entered upon and used by said corporation, and all earth, timber, stone, gravel, and other materials needed by said company, shall be purchased of the owners thereof, at a price to be mutually agreed upon between them; and in case of any disagreement of the owner as to the price of any lands or materials so required for said roads, or if the owners are under any disability, in law, from any cause whatever, to contract, or are absent from the county, application may be made, either by said owners or by said corporation, to any judge of circuit court,

Term of office.

To appoint sub-officers.

Location route.

Corporate powers.

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Condemnation
of land, &c.

or any justice of county court, within which said lands or materials, so required, or already appropriated, may be, (specifying the lands or materials); and thereupon, said judge or justice shall issue his warrant, in writing, directed to the sheriff of the county, requiring him to summon an inquest of twelve inhabitants of said county, who shall not be stockholders, nor related to the owner of the lands, materials, &c., or in anywise interested, to meet at or near said lands or materials, so to be valued, on a day named in said warrant, not less than five nor more than ten days after issuing the same; and if, at said time and place, any of said jurors summoned do not attend, the sheriff shall summons, immediately, as many jurors as may be necessary, with the jurors in attendance, to finish a pannel of twenty jurors attending; and from them each party, or its, his, or her, or their agents, if either be not present, in person or by agent, the sheriff for him, her, or it, may strike off four jurors, and the remaining twelve shall act as the jury of inquest of damages; and before they act as such, the said sheriff shall administer to each of them an oath or affirmation, as the case may be, that they shall justly value the damages which the several owners will sustain by the use or occupation of the lands, or materials, or property required by said company; and said inquest shall reduce their valuation to writing, and sign and seal the same; it shall then be returned by said sheriff to the clerk of the circuit court for said county, and by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown; and, when confirmed, shall be recorded by said clerk at the expense of said company; but if set aside, the court may direct another inquisition to be taken, in the same manner above prescribed; and such inquisition shall describe the property taken, or the bounds of the land condemned, and the quantity or duration of the interest on the same, valued for the company; and such valuation, when paid or tendered to the owner or owners of said property, or his, her, or their legal representatives, shall entitle the said company to the estate and interest in the same, thus valued, as fully as if it had been conveyed by the owner or owners thereof; and if the owner or owners be not found, it shall be sufficient if the valuation be deposited in any specie paying bank, to the credit of them, or their proper legal representatives; and every sheriff and juror acting in the premises, shall receive one dollar per day for his services, to be paid, on the first inquest, by the said company; but upon all second or future inquests, as to the said court may seem just.

May cross any
water course or
roads.

§ 12. Whenever it shall be necessary, for the construction of the railroad, to intersect or cross any stream of water or water course; or any road or highway lying in or across the route of said road, it shall be lawful for the cor-

poration to construct the said railway across or upon the stream, or to cut or cross any such road or highway, and to change the location thereof during the process of the construction of said railway; but the corporation shall restore the stream or water course, or road, or highway, thus intersected, to its former state, or in a sufficient manner not to destroy its usefulness; and shall restore any road at a grade not exceeding the heaviest grade upon said road existing at the present time.

§ 13. The said corporation shall have power to locate and construct branch roads from the main route, to any other towns or places in the several counties through or near which said road may pass, not destroying the vested rights of other corporations.

§ 14. It shall be lawful for the directors to require payment of the sums to be subscribed to the capital stock, at such times and in such installments as they shall see fit; and if installments remain unpaid for sixty days after the time of payment has elapsed, the board may collect the same by suit, or shall have power to sell the stock at public auction, for installments then due, (giving twenty days notice of the time and place of sale, by advertisement in a newspaper in general circulation in the county where such sale is to be made,) and costs of making said sale, and the residue of the price thus obtained shall be paid over to the former owner.

§ 15. That said company may demand and receive for tolls upon, and transportation of goods, produce, or property of any kind whatever, by them along said railway, any sum not exceeding the following rates: on all goods, merchandise, or property of any description, transported by them, a sum not exceeding one and a half cents per mile for toll; five cents per ton, per mile, for transportation; and for the transportation of passengers, not exceeding four cents per mile for each passenger.

§ 16. If the subscribers to the company hereby created shall not become so far organized, as to elect a board of directors within two years from the passage of this act, and, within eighteen months thereafter, make *bona fide* contracts for the construction of at least one-sixth of said road, the privileges of said corporation shall cease, and this act be void.

§ 17. That any other railroad company which has been, or may hereafter be chartered by law of this state, may join and connect any railroad with the road hereby contemplated; and full right and privilege is hereby reserved to the state, or individuals, or any company incorporated by law of this state, to cross this road: *Provided*, any other railroad, connecting with the road hereby provided for, shall lead from the main route, and diverge therefrom at an angle of twenty degrees or more: *And, provided fur-*

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Branch roads.

Directors may make calls on stock.

Delinquent stock to be sold at auction.

Rates of tolls.

When charter to be void.

Any other road may unite with this.

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ther, that in forming such connection, or in crossing the said road, no injury be done to the works of the company hereby incorporated.

Cars of other
road to be trans-
ported.

§ 18. That any road connecting with the road hereby incorporated, shall have their-cars drawn on the said road by the Lexington and Big Sandy railroad company, without delay, and without unlading, on such terms as said company may agree upon, and on the payment of the proper tolls, the said Lexington and Big Sandy railroad company furnishing the motive power at a reasonable price.

Dividends.

§ 19. That the said president and directors shall, annually or semi-annually, declare and make such dividend as they may deem proper of the net profits arising from the resources of said company, after deducting the necessary current and probable contingent expenses; and shall divide the same amongst the stockholders of said company, in proportion to their respective shares.

Vacancy—how
filled.

§ 20. That when any vacancy shall occur in the board of directors of the company, by death, resignation, or other cause, the board remaining shall have power to fill such vacancy; and the person or persons, so appointed, shall continue in office until the next annual election for directors of said company.

General meet-
ings of stock-
holders.

§ 21. That a general meeting of the stockholders of said company may be called at any time during the interval between the annual meetings, by the president and directors, or a majority of them, or by the stockholders owning at least one-fourth of the whole stock subscribed, upon giving public notice for thirty days of the time and place of holding the same, which shall be at some place in——, named in the advertisement; and when any such meetings are called by the stockholders, such notice shall specify the particular object of the call; and if, at any such called meetings, a majority (in value) of the stockholders of said company are not present, in person or by proxy, such meeting shall be adjourned from day to day, without transacting any business, for any time not exceeding three days; and if, within said three days, stockholders having a majority (in value) of the stock subscribed, do not then attend, such meeting shall be dissolved.

Statement of
affairs.

§ 22. At the regular meeting of the stockholders of said company, it shall be the duty of the president and directors, in office for the preceding year, to exhibit a clear and distinct statement of the affairs of the company; and at any called meeting of the stockholders, a majority (in value) of the whole stock subscribed being present, or a majority (in value) of the attending stockholders, may require similar statements from the president and directors, who shall furnish them when so required; and at all general meetings of the stockholders, a majority (in value) of all

the stockholders in said company may remove from office the president or any of the directors of said company, and fill up vacancies thus created, in the same way and to the same extent that they could do at their stated annual meetings.

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§ 23. Every president and director of said company, before he acts as such, shall swear or affirm, (as the case may be,) before some person authorized to administer oaths, that he will well and truly discharge the duties of his said office, to the best of his skill and judgment.

President and directors to take oath of office.

§ 24. That if any of the stock created by virtue of this act, shall remain unsubscribed until after the election of the president and directors, as provided for in the seventh section of this act, the said president and directors, or a majority of them, shall have power to open books and receive subscriptions to any of the capital stock of said company which may remain unsubscribed for, or to sell or to dispose of such unsubscribed stock, for the benefit of said company, for any sum not under its par value, unless by consent of a majority (in value) of the stockholders; and the purchasers or subscribers of said stock shall have all the rights, powers, and privileges of original subscribers, and shall be subject to the same regulations; and if the exigencies of the company should require the payment on the stock to be made more rapidly than is provided for herein, or should the president and directors, or a majority of the whole number elected, consider it expedient for the purpose of aiding the stockholders, or hastening the completion of the contemplated road, it shall be lawful for them to borrow, on the credit of said company, a sum of money not exceeding five hundred thousand dollars, and shall have power to pledge the property of the company for the payment thereof.

Books to be re-opened.

May borrow money.

§ 25. That the said Lexington and Big Sandy railroad company, so far as aforesaid formed, shall have perpetual succession of members; may have a common seal, may sue and be sued, plead and be impleaded, in any court of law or equity; and the president and directors thereof may make all such rules, regulations, and by-laws as are necessary or proper for the government of the corporation, or affecting the object for which it is created: *Provided*, such rules, regulations, and by-laws shall not be repugnant to the laws and constitution of this state or of the United States; and said president and directors shall let out all contracts for the construction of said road, and for the purchase of materials, cars, engines, &c., and for the erection of all necessary and convenient buildings.

Powers of corporation.

§ 26. That if any person or persons shall willfully, by any means whatsoever, injure, impair, or destroy any part of any railroad constructed for said company, under this act, or any of their necessary works, building, carriages,

Penalties for obstructing or injuring road.

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vehicles; or machinery of said company, such person or persons, so offending, shall each of them, for every offense, forfeit and pay to the said company a sum equal to twice the value of the property destroyed or injured, or twice the damages sustained by said company by reason thereof; which may be recovered in the name of said company, by an action of the circuit court of the county wherein the offense shall be committed; and such offender shall also be subject to indictment, in said court, and, upon conviction of such offense, shall be punished by imprisonment not less than six months nor more than four years, in the discretion of a jury.

State tax to be paid.

§ 27. That the president and directors of said company shall cause to be paid into the treasury of this commonwealth a tax of six cents, annually, upon each two shares of stock owned and held by any stockholder of said company, the same to be collected as now or hereafter may be provided by law for the collection of the state revenue: *Provided*, that no citizen of this commonwealth shall be required to list any share he may hold in said road, under the equalization law; the tax imposed by this act shall be collected only upon the cost of this road, as the said road is completed and put in use, carrying freight and passengers for pay.

Certain counties and towns may subscribe stock.

§ 28. That the city of Lexington, and the counties of Clarke, Montgomery, Bath, Fleming, Carter, Greenup, and Fayette, and any other city, county, or corporation, be and they are hereby permitted to hold stock in the corporation created by this act, upon the same terms, on the same conditions, and subject to the same restrictions with other stockholders: *Provided*, the amount by said several cities, counties, and corporations, separately subscribed, shall not in any single instance exceed the following sums: by Lexington, one hundred and fifty thousand dollars; by Lexington and Fayette county, jointly, one hundred and fifty thousand dollars; by Clarke county, two hundred thousand dollars; by Montgomery county, two hundred thousand dollars; by Bath county, one hundred and fifty thousand dollars; by Fleming county, one hundred and fifty thousand dollars; by Carter county, one hundred thousand dollars; by Greenup county, one hundred and fifty thousand dollars; and by any other city, county, or corporation, any sum not exceeding the largest amount aforementioned; and it shall be lawful for the president and directors of said company, after giving six week's notice thereof, by advertisement in the papers of the said several cities and counties, wherein a vote shall be proposed, (or, if there be no paper printed in any county in which a vote shall be proposed, then in such paper as may have a general circulation in such county,) upon a day named in such advertisement, to take the sense of the qualified voters of said cities and counties, or any

Vote on subscribing stock.

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one or more of them, as to the policy of said cities and counties, or any one or more of them, becoming subscribers to the stock in said railroad company, to any amount which may have been proposed in said printed notice, not exceeding the respective sums above specified; and it shall be the duty of the mayor and council of the city of Lexington, and all other cities, and of the county courts of the several counties, upon the day named in said printed notice, to open columns in the various precincts of said cities and counties, and to take all necessary measures for correctly ascertaining the sense of the qualified voters of their respective cities and counties, at the polls thereof, as aforesaid, and, provided a majority of all the qualified voters of any of said cities or counties, who shall have cast their votes at said election, shall be in favor of the said several subscriptions of stock, as proposed to such city or county, it shall be the duty of the mayor and council of every such city to pass an ordinance, not exceeding the sum specified in said printed notice; and it shall be the duty of the county court of every such county, in like manner, to empower and direct their clerk to subscribe for the amount of stock authorized by the voters of said county, not exceeding the sum specified in said printed notice; and it shall be lawful for said cities and counties, so authorizing subscriptions to the capital stock of said company, to raise the amount of their separate subscriptions as the same shall be called by the president and directors of said road, and by a tax on the real and personal estate of the said several cities and counties subscribing, or by borrowing the amount thereof, payable in the way and on the terms the said several mayors and councils, and the said several county courts, may deem most advisable; and the interest on all such sums borrowed may be provided for in such manner as to them seems best: *Provided*, that all taxes laid by any city or county to pay the principal and interest (or either,) of the amounts borrowed by them, shall be pledged and sacredly appropriated to such purpose, and no other: *And, provided*, that all sums paid by any citizen of said cities or counties, on account of the several subscriptions of any city or county, or in payment of the interest of any such subscription, shall entitle him to a certificate for the amount thereof; and, when said certificates amount to fifty dollars, shall entitle him to one share of the stock subscribed by said city or county, for every fifty dollars so held by him: *Provided, further*, that the city council of the city of Lexington may, at any time after the passage of this act, on giving three weeks notice thereof in the newspapers printed in said city, cause a poll to be opened in all the wards of said city, and the sense of the voters taken as to the propriety of said city subscribing to the capital stock of said road, as provided in this charter; and if a majori-

Proceedings thereon.

Tax to pay subscriptions.

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ty of those voting vote in favor of, it shall be the duty of the board of council to subscribe the number of shares provided for in this charter, so soon as books shall be opened.

Specific sub-
scriptions may
be reduced.

§ 29. That the Lexington and Big Sandy railroad company may receive subscriptions of stock in said road, in lands, coal banks, or any other minerals, at such valuation as may be agreed on by the person or persons proposing to subscribe such stock, and the commissioners heretofore appointed, or the president and directors. But no subscription of stock, as aforesaid, shall be obligatory until the contract shall be reduced to writing, according to the laws in force in reference to the sale of real estate in this commonwealth; and all acts or parts of acts are hereby repealed, that come in conflict with this act.

Approved January 9, 1852

CHAPTER 450.

AN ACT to amend the boundary of Justices' District No. 3, in Taylor county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the boundary lines of the Campbellsville justices' district and election precinct No. 3, in Taylor county, be and the same is hereby so amended as that said boundary line shall hereafter run from Samuel Williams' straight to and including the residence of John Speers; thence a straight line to and including the residence of Andrew Campbell; and thence westward to the county line.

Approved January 9, 1852.

CHAPTER 451.

AN ACT to authorize the Judge of Spencer Circuit Court to administer the oath of office, in vacation, to a deputy clerk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the judge of the Spencer circuit court be and he is hereby authorized to administer the oath of office required by law, to James K. Minor, as deputy clerk of the Spencer circuit court, at any time between the passage of this act and the next term of said circuit; and the same shall be as valid as if administered in term time of said court.

Approved January 9, 1852.

CHAPTER 452.

1852.

AN ACT to change Justices' District No. 2, Spencer county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the lines and boundaries of justices' district Nos. 2 and 3, in Spencer county, be changed as follows, to-wit: beginning at where the county road crosses Salt river, opposite James Downs'; thence to include Thomas Lilly and Lemuel Stone; thence to the county line between Spencer and Nelson counties, so as to include Samuel Briscoe; thence with said line to the line of justices' district No. 3; thence with said line to the beginning. That the foregoing boundary shall be and is hereby attached to justices' district, No. 3.; and all qualified voters therein shall be entitled to vote in said district No. 3, as aforesaid.

Approved January 9, 1852.

CHAPTER 454.

AN ACT to authorize the sale of Parsonages in Green and Muhlenburg counties.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for Thomas Lasley, Matthew W. Lasley, and David M. Hilliard, as agents and trustees of the methodist episcopal church south, in the county of Green, to sell and convey a small lot of ground on Brush creek, in Green county, near the late residence of Thomas Haring, known as the methodist parsonage, and to appropriate the proceeds according to the direction of the quarterly conference having jurisdiction at that place.

§ 2. That W. D. Lindsey, John Campbell, John C. Gibbs, Thomas Jarnigan, and B. E. Pittman, or a majority of them, trustees of the house and lands belonging to the parsonage of the Greenville circuit, and Louisville conference, of the methodist episcopal church south, be and they are hereby authorized to sell and convey title to the said parsonage house and lot of land, in or near the town of Greenville, and, out of the proceeds, to pay all debts and liens against said property, and use the balance of proceeds, if any, as the quarterly conference of Greenville circuit may direct.

§ 3. That John Campbell, George W. Short, W. D. Lindsey, John C. Gibbs, and B. E. Pittman, or a majority of them, trustees of the methodist episcopal church south, in the town of Greenville, Muhlenburg county, be and they are hereby authorized to sell the methodist church, and lot of land on which the same is situated; and any conveyance made by said trustees, or a majority of them, shall pass the title of said house and lot to the purchaser; and the trustees shall hold the proceeds of the sale for the

1852. use and benefit of the congregation lately worshipping at the said methodist church.

Approved January 9, 1852.

CHAPTER 455.

AN ACT to incorporate the Frankfort Woolen Company.

- Corporate name and objects.** § 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a corporation be and the same is hereby created, under the name and style of the Frankfort woolen company, and shall have all the rights, immunities, and powers necessary and proper for conducting its business, which shall be the manufacture of wool or cotton, or both, in the city of Frankfort; and, by the name aforesaid, shall be capable, in law, of taking, purchasing, holding, and possessing such tenements, goods, chattels, merchandise, and effects as may be necessary for the purposes of said corporation, and the same to sell, dispose of, and convey the same at pleasure; also, may, in that name, sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts and places.
- Corporate powers.** § 2. The capital stock of said company shall not exceed one hundred thousand dollars, to be divided into shares of one hundred dollars each; and subscriptions to the capital stock may be made by, persons signing their names to a covenant to take the number of shares placed opposite their names, and to pay to the company the amount thereof at such times and in such sums as they may require.
- Capital stock.** § 3. That J. M. Lancaster, John H. Hanna, Jacob Swigert, Nathaniel Hart, P. Swigert, John Watson, S. Brownell, and William L. Vance, be and they are hereby appointed commissioners, any one of whom may act, to open books and receive subscriptions to the capital stock of said company, in the city of Frankfort; and when the sum of ten thousand dollars shall have been subscribed, they may call a meeting of the subscribers, who may organize the company by the election of a president and three directors, who shall hold their offices for such length of time as may be prescribed by the stockholders, and shall conduct and manage the affairs of the corporation in such manner as the stockholders may direct, not inconsistent with the laws of this state.
- Commissioners.** § 4. There shall be a meeting of the stockholders held annually, or oftener, if called by the president and directors, or a majority of the stockholders; and at every such meeting the officers of the corporation, if required, shall submit a full statement of the affairs, business, and accounts of the company; and a majority of the stockholders, from time to time, may permit additional stock to be subscribed, until the whole amount authorized by this act
- Organization of company.**
- Annual meeting.**

shall have been taken. Stockholders may be represented at all meetings of the company, by proxy, in writing; and each stockholder shall be entitled to as many votes as he holds shares. Certificates of stock shall be issued in such manner as the by-laws may direct.

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§ 5. The president and directors, from time to time, may make such calls on the shareholders as they see fit; and if any shareholder shall fail to pay any call, so made, his stock, or as much thereof as may be necessary, may be sold, after thirty days notice published in one of the newspapers of Frankfort, at public auction to the highest bidder; and if, at such sale, said stock shall not bring enough to pay the deficit, then such defaulting stockholder shall be bound to make it good; but if it sell for more than sufficient to pay the whole amount of said defaulter's stock, with the interest and cost, then such excess shall be paid to such stockholder.

Calls on stock; defaulters.

§ 6. The stock in said company shall be considered and held as personal estate, and be transferred on the books of the company, in person or by power of attorney; but the company shall have a lien on the stock of any subscriber or stockholder, for any debt he may owe said company. Dividends may be declared, annually or semi-annually, of the profits of said company; but no dividend shall ever diminish the capital stock subscribed.

Stock to be personal estate.

Dividends.

§ 7. The president and directors shall have power to employ such agents as may be necessary for the management of the business of the company, to fix their compensation, and dismiss them at pleasure.

Agents.

§ 8. Notice shall be given, by public advertisement in one of the newspapers of Frankfort, of the organization of the company, under this act.

Notice of organization.

§ 9. This corporation may continue for fifty years, subject to the right of the general assembly to change or repeal this charter at pleasure.

Duration of the charter

Approved January 9, 1852.

CHAPTER 456.

AN ACT to establish the Police Court of Hillsborough, in Fleming county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That there is established, in the town of Hillsborough, in Fleming county, a police court, to be called the police court of Hillsborough, the officers whereof shall be a judge and marshal, who shall be elected by the persons entitled to vote for trustees of said town, at the same time and place that the said trustees are elected. The first election for said judge and marshal shall be held on the same day, in the year 1852, now fixed for the election of the trustees of said town, and thereafter every two

Police court; its officers; first election.

- 1852.** years; said election shall be conducted by the said officers who conduct the election of trustees for said town, who shall give certificates of election to the persons so elected. The record of the election shall be kept by the same persons who keep the record of the election of said trustees. In case of a tie vote, the officers conducting the election shall choose, by lot, between those having the highest equal vote. Vacancies shall be filled, and contested elections settled, in the same manner and by the same authorities that vacancies are filled and contested elections settled for justices of the peace.
- * Vacancy; how filled.** § 2. The police judge and marshal, first elected, shall hold their offices until the election of trustees of said town in the year 1853, and until their successors are elected and qualified, and thereafter for the term of two years, and until their successors are elected and qualified; but in no event shall they hold for a longer term than three years from the day of their election.
- * Terms of office of police judge and marshal.** § 3. The said officers shall reside and keep their offices within the limits of said town. The governor, when informed of the election of said judge, shall issue to him a commission; and upon its reception, said judge, before any person authorized to administer oaths and in the form of an affidavit, shall take the oath required by the constitution, and also an oath that he will discharge the duties of his office according to law; which affidavit, certified by said officer, shall be recorded by the clerk of the Fleming county court in his office, for which he shall receive twenty-five cents.
- Judge to take oath.** § 4. The marshal shall, in the Fleming county court, in open court, take the oath required by the constitution, and also an oath that he will discharge the duties of his office according to law, and shall enter into bond to the commonwealth, in the penalty of two thousand dollars, with security to be approved by the court, conditioned that he will discharge all the duties of said office truly, and the same shall be filed and kept as a part of the records of said court, upon which any person aggrieved by the official acts of said marshal may sue. For his services the county clerk shall be allowed the same fee he is entitled to for administering oaths and taking bond of a constable.
- Marshal to take oath.** § 6. The judge shall possess the same qualifications as those required of a justice of the peace, and the marshal those of a constable; and for misfeasance or malfeasance in office, on the presentment of a grand jury, they may be removed from office, subject to an appeal to the court of appeals, and shall be liable to impeachment, and incur all the penalties arising therefrom.
- Qualifications.** § 6. Said court shall have jurisdiction of all violations of the ordinances of said town, and concurrent jurisdiction with justices of the peace in all matters which now are or
- Jurisdiction.**

which may hereafter be cognizable before them, with the same powers, privileges, and rights, and under the same rules and restrictions. The marshal shall exercise the same powers and possess the same rights as a constable now has or may hereafter have. They shall, severally, be entitled to charge and receive the same fees as justices of the peace and constables are or may hereafter be entitled to receive for like services.

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Powers of marshal; fees.

§ 7. Appeals from the decisions of said police judge shall be allowed to the circuit and county court, under the same rules and regulations as are allowed from those of justices of the peace; and when said officers go out of office, they shall deliver to their successors all the official records and papers in their hands, and may require a receipt therefor.

Appeals.

§ 8. If either of said officers shall exercise any of the duties of his office before he shall have qualified, he shall be fined in any sum not exceeding one hundred dollars, to be collected as other fines are.

Not to act before qualified.

§ 9. The marshal shall execute the process of said court, but the judge may, for good cause, and in case of urgency, direct the same to any constable or the sheriff of said county, who shall execute them.

Process may be executed by a constable.

§ 10. It shall be competent for the citizens of said town, entitled to vote for the officers of the police court, to vote for the district justice of the peace or district constable.

Citizens not to vote for justice or constable.

Approved January 9, 1852.

CHAPTER 457.

AN ACT for the benefit of the sixth Road District, in Kenton County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Kenton county road laws, so far as they may be applicable to the sixth road district, in said county, be and the same are hereby repealed; and hereafter the roads in said district shall be worked and improved under and according to the provisions of the existing general laws in relation to such matter.

Approved January 9, 1852.

CHAPTER 458.

AN ACT to authorize the County Court of Bracken to discontinue the State Road from Augusta to Brooksville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Bracken county court is hereby invested with power to discontinue so much of the state road leading from the city of Augusta to Brooksville, as runs parallel with the Augusta, Cynthiaana, and Georgetown turn-

1852. pike road: *Provided*, those residing thereon shall have been served with ten days notice thereof.

Approved January 9, 1852.

CHAPTER 459.

AN ACT for the benefit of the Taylor's Mill Turnpike Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the time for receiving subscriptions to the capital stock of the Taylor's mill turnpike company, in Kenton county, be and the same is hereby extended; and the said commissioners may organize by the election of their officers, and may commence the work on said road any time within five years from and after the passage of this act.

Approved January 9, 1852.

CHAPTER 460.

AN ACT to change the line of Justices' District No. 1, in Laurel county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the justices' district and voting precinct No. 1, in Laurel county, be so extended as to include William Oweins and Reuben Oweins in the same.

Approved January 9, 1852.

CHAPTER 461.

AN ACT for the benefit of the Sheriff of Anderson county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That further time until the first day of May, 1852, be allowed the sheriff of Anderson county to return his delinquent list for the year 1851.

Approved January 9, 1852.

CHAPTER 462.

AN ACT to incorporate Napoleon Division, No. 260, Sons of Temperance.

Corporate name
and powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of Napoleon division, No. 260, sons of temperance, in Napoleon, Gallatin county, be and they are hereby created a body politic and corporate, by the name and style of Napoleon division, No. 260, sons of temperance, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, suing and being sued, pleading and be-

ing impleaded, of purchasing and holding all such real and personal estate as may be required for the use of said division; to receive all necessary conveyances, to sell, convey, and dispose of all such real or personal estate as they may now have or may hereafter acquire: *Provided*, the amount vested in real estate, exclusive of buildings thereon, shall at no time exceed twenty thousand dollars.

§ 2. That the management of the concerns of said corporation shall be and is hereby confided to five trustees, and their successors in office, who, or a majority of them, shall have full power and authority to make all contracts pertaining to the real or personal estate of said division,

§ 3. That the trustees of said corporation may have, make, and use a common seal, which they may change or alter at pleasure; and the members of said division may make such by-laws, rules, and regulations touching the management and control of the real and personal estate belonging to said division, as they, from time to time, may choose: *Provided*, they be not inconsistent with the constitution and laws of the United States or this state.

§ 4. That M. J. Williams, C. W. Farris, T. F. McAllester, B. Swope, and G. M. Conly, be and they are hereby appointed trustees, as provided for in section second hereof, and shall hold their office until the last Saturday in September, 1852, and until their successors are appointed; and it shall be the duty of the members of said division, on the last Saturday in September, 1852, and on the last Saturday in September every year thereafter, to elect five members of their own body to act as trustees for one year, or until their successors are duly elected; and the service of process or notice on any two of said trustees shall be sufficient service and notice for all.

§ 5. The legislature hereby retains the power to alter, change, modify, or repeal this act at pleasure.

Approved January 9, 1852.

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Contracts.

Trustees; their powers.

Trustees' names

Election.

Repealing power reserved

CHAPTER 463.

AN ACT for the benefit of Benjamin F. Maxfield, of Boone county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Benjamin F. Maxfield, of Boone county, be and he is hereby authorized to peddle goods, wares, and merchandise in this commonwealth, without paying the tax now imposed upon peddlers.

Approved January 9, 1852.

LAWS OF KENTUCKY.

1852.

CHAPTER 464.

AN ACT for the benefit of the town of Danville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the subscription of ten thousand dollars, by the board of trustees of the town of Danville, to the capital stock of the Lexington and Danville railroad company, be and the same is hereby legalized.

§ 2. That for the purpose of paying said subscription, the board of trustees of said town be and they are hereby authorized to borrow money, on the faith of the revenues of said town, and to execute bonds for the payment of said subscription, or of any money which may, from time to time, be borrowed to pay the same, and to pledge the faith of said town for the performance of any contract which said board of trustees may make in relation thereto.

§ 3. That said board of trustees shall, from time to time, appropriate, out of the tax income or other revenue belonging to the town, a sum sufficient to pay the interest on any bonds which may be executed, and also to pay the principal of said bonds and subscription; and said board of trustees may pledge the stock issued to said town, on account of said subscription, as a collateral security, to secure any contract made for the purpose of procuring the money to pay said subscription: *Provided*, that no authority is hereby given to increase the rate of taxes in said town beyond the rates now authorized by the charter of the town of Danville.

Approved January 9, 1852.

CHAPTER 465.

AN ACT to incorporate Hermann Lodge, No. 17, I. O. O. F., of Louisville.

Corporation name
and powers

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That George Shoemaker, Frederick Langensfeldt, and Frederick Alberti, together with their associates and fellow-members, be and the same are hereby created a body corporate, under the name and style of the Hermann lodge, No. 17, independent order of odd fellows, with perpetual succession; and, by that name and style, shall be capable to have and to use a common seal, to sue and be sued, to plead and be impleaded, in all courts of justice.

May hold real
estate.

§ 2. The said corporation shall have power to acquire and hold any real and personal estate, not exceeding in value twenty thousand dollars, and to sell and dispose of the same, as by said corporation shall be deemed expedient, or any part thereof, and to do with the proceeds as said corporation shall see proper.

May enact by-
laws.

§ 3. The said corporation shall have power to ordain and to put into execution such rules and regulations for its government, and the management of its affairs, as said corporation shall see proper: *Provided*, they be not con-

trary to the laws of this state or of the United States of America.

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§ 4. In the event of a dissolution of this corporation, its effects and property shall become the property of the grand lodge, independent order of odd fellows, of Kentucky.

Dissolution.

Approved January 9, 1852.

CHAPTER 466.

AN ACT fixing the time for holding the Court of Claims in Fayette county, and certain terms of the Jessamine County Court.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That, hereafter, the time of holding the court of claims and county levy for Fayette county shall be held on the second Monday in May of each year.

§ 2. That, hereafter, the county courts of Jessamine county to be held in the months of May, September, and November, shall be held on the second Mondays in May and November, and on the third Monday in September, in each year.

Approved January 9, 1852.

CHAPTER 467.

AN ACT to change the boundary of Magistrates' and Constable's District No. 4, in Breckinridge County.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, the following shall be the boundary of magistrates' and constable's district No. 4, in Breckinridge county, instead of as heretofore laid off, to-wit: beginning at King's old place; thence a straight line to where the old Litchfield road crosses Calamese's creek; thence with the said road to Ruel Shrewsbury's old place; thence a straight line to Thomas Smith's, to include him; thence a straight line to Edward Turpin's, to include him; thence with Pullin's mill road to the north fork of Rough creek, and down said creek to Tate's mill; thence with the old Litchfield road to where it intersects the new Litchfield road; thence to Elizabeth Pullin's place, to include that; thence a straight line to Mrs. Frank's mill; thence a straight line to Joshua Lamp-ton's, not to include him; thence with the Hartford road to the Eskridge ferry road; thence with the old boundary line to the beginning, at King's old place.

§ 2. That the changes made in the said district No. 4, in the first section of this act, shall not have the effect to throw any magistrate or constable out of office because he may not reside in said district, as changed, but shall remain in office as though this change had not been made; but the

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next election in said district shall be held in district No. 4, as hereby changed.

Approved January 9, 1852.

CHAPTER 468.

AN ACT to incorporate the Licking River Navigation Company.

Company cre-
ated.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company be and the same is hereby incorporated, to improve the navigation of Licking river, from the mouth of said river to West Liberty.

Capital stock.

§ 2. The capital stock of said company shall be seven hundred and fifty thousand dollars, to be divided into seven thousand five hundred shares, of one hundred dollars each.

Corporate name
and powers.

§ 3. Said company shall be a body politic and corporate, by the name and style of the "Licking river navigation company;" and, by that name, shall have perpetual succession, and all the privileges and franchises incident and belonging to a corporation; shall have a common seal; and shall be capable of taking and holding their capital stock, and the increase and profits thereof; and of purchasing, taking, and holding, to them and their successors and assigns, and of selling, transferring, and conveying in fee simple, all such lands, tenements, and hereditaments as shall be necessary to them in the prosecution of their work; to sue and be sued, answer and be answered, plead and be impleaded, defend and be defended, in courts of record in this commonwealth and elsewhere; shall have full power to pass such by-laws, rules, and regulations for the government, direction, and control of the private affairs of the company, as shall be deemed necessary, not being contrary to this act or to the constitution of Kentucky.

Books to be
opened.

Commissioners.

§ 4. The books, for the subscription of the capital stock of said company shall be opened at such time and place as the commissioners, hereinafter named, or a majority of them, or their successors in office, may direct; said commissioners shall be Henry H. Goodman, Larz Anderson, Henry H. Southgate, Oliver M. Spencer, and Erasmus Gist, of the city of Cincinnati; James Taylor, Edward L. Southgate, John M. Caldwell, and James M. McArthur, of the city of Newport; John B. Casey, James Southgate, John W. Stevenson, and Robert Wallace, of the city of Covington; Samuel T. Hauser and Samuel F. Swope, of the county of Pendleton; Step. B. Curran and Nimrod Whitehead, of the county of Harrison; G. P. Bedinger, William A. Moore, and J. H. Talbott, of Nicholas county, and their successors in office, duly elected as hereinafter provided.

Contract.

§ 5. The said commissioners shall procure a book or books, and the subscribers to the stock of said company shall enter into the following obligation in said book or

books, to-wit: "I promise to pay to the Licking river navigation company the sum of one hundred dollars per share, for — share (or shares, as the case may be,) of the stock of said company, in such manner, in such proportion, and at such times as shall be required by the said company, and agreeably to an act of the general assembly of Kentucky incorporating said company. Given under my hand and seal this — day of — 185 —." The said commissioners, or a majority of them, shall give at least twenty days notice of the time and place of opening the books for the subscription of the stock of said company, and they shall continue them open for at least twenty days: *Provided*, that nothing in this act shall be construed to prevent said books for subscription from being opened at any time until the whole stock shall be subscribed.

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Notice of opening books.

§ 6. As soon as the sum of one hundred thousand dollars of the capital stock shall be subscribed, the commissioners aforesaid, or a majority of them, or their successors, shall, at such time and place as they may designate, call a meeting of the stockholders, and shall hold an election for president and ten directors, who shall hold their offices until the first day of January next ensuing said election, and until their successors are elected and qualified; and the president and directors, before entering upon the duties of their appointment, shall, before some justice of the peace, take an oath that they will faithfully discharge the duties of their respective offices, without favor or affection, according to the best of their judgment; that upon the qualification of the president and directors, they shall appoint a treasurer, and such other officers as they shall deem necessary, who shall hold their offices one year, and until others are appointed. The treasurer shall, before entering upon the duties of his office, execute bond, with security, to the president and directors, in such penalty as they shall direct, conditioned for the faithful discharge of the duties of his office.

Organization.

Election of directors.

To take oath.

Treasurer to execute bond.

§ 7. The president and directors shall have power to call in the stock subscribed, first giving twenty days notice in one or more of the papers published in the cities of Cincinnati, Covington, and Newport, of the time of payment, and the amount thereof: *Provided, however*, that no call shall be made for more than ten per centum on the share, nor shall they be oftener made than once in every sixty days. And if any stockholder or stockholders shall neglect or refuse to pay his proportion of the stock, as called, for the space of thirty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the stock so called, pay at the rate of one per cent. per month for every delay of such payment; and if he shall delay to pay the amount of such call, and the penalty aforesaid, for the space of six months after the time said pay-

Calls on stock; defaulting stock

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ment is required, he or they shall forfeit said share or shares to the said company, and the amount that shall have been paid thereon; and said shares shall be, thereafter, (first having been advertised fifteen days,) sold to the highest bidder, provided they will bring the balance unpaid on them at the time of said forfeiture; or, instead of forfeiting said shares, as hereinbefore mentioned, the said company may institute suit, in any court of competent jurisdiction, to recover the sum or sums due and unpaid.

Each share shall have a vote.

§ 8. In the election of the officers of said company, or in voting upon any question or matter in which the stockholders may be required to vote, they shall be entitled to one vote for each share of stock they may have subscribed for: *Provided, however*, that no stockholder shall be entitled to vote at any election for officers, or be entitled to any of the privileges and immunities of a stockholder, while any call made by the company upon the share or shares held by him is due and unpaid.

Stockholders only to be officers.

§ 9. The stockholders may vote in person or by proxy, and none but a stockholder shall be eligible as president, or director, or treasurer, or to any other office in said company, the duties of which appertain to the management of the pecuniary affairs of the company; and the president and directors, and other officers, as aforesaid, shall cease to be such on his or their ceasing to be stockholders. The annual election for the president and directors shall be on the first day of January in each year, after the organization, as provided in the sixth section of this act, and shall hold their offices one year, and until their successors are elected and qualified; and the elections shall be held at such places as the president and directors may appoint; and at each general election, as aforesaid, it shall be the duty of the president and directors to lay before the stockholders a just and full expose of the situation of the company, and also a record of their proceedings for the past year, a copy of which expose and record they shall transmit to the legislature of Kentucky, on or before the tenth day of January aforesaid.

Annual election

Certificates of stock.

§ 10. The president and directors shall deliver to each stockholder a certificate, signed by the president and countersigned by the treasurer, and sealed with the seal of the company, of each share of stock subscribed and held by such stockholder, which certificate shall be transferred on the books of said company, in person or by attorney; but no share shall be transferred until all the calls and arrearages are paid thereon; the original certificate of the share or shares, subscribed and transferred, shall be surrendered, and a new certificate shall issue to the purchaser or assignee, who shall be a member of said company, and entitled to all the benefits and privileges to which the original owner was entitled.

§ 11. The president may call a meeting of the directors at such time and place as he may think proper. A majority of the directors, including the president, shall be necessary for the transaction of business. They shall keep a record of their proceedings, to be entered in a book kept for that purpose; and the proceedings of the president and directors shall be signed by the president; and in case of the absence of the president, the directors shall elect a president *pro tempore*; and they may adjourn from time to time, as they may think proper.

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President and directors: powers and duties.

§ 12. The president and directors shall employ such engineers, artists, laborers, &c., as may be by them deemed necessary for the successful prosecution of the work, allowing to the persons so employed such reasonable compensation as may be agreed upon between said president and directors and said persons so employed. The said president and directors may make contracts, and do all things necessary for carrying said work into immediate operation; and require and take bond, in the corporate name of said company, from any person or persons they may contract with. And in case of the death or resignation of the president and directors, or any or either of them, or a vacancy from any other cause in said board of president and directors, the remaining member may elect a stockholder or stockholders to supply the place or places in said board, so vacated, for the unexpired term of his or their predecessor or predecessors.

May employ engineers, &c.

Vacancies—how filled.

§ 13. The said president and directors, or their agents, shall be and they are hereby authorized to contract with the owners of lands and tenements which may be necessary for the erection of toll houses, locks and dams, &c., and such earth, stone, wood, gravel, and other materials necessary in and about the said company works; but in case no contract or agreement can be made with the owners of such lands, tenements, &c., the said company may proceed to have the land, materials, &c., condemned, under the provisions of an act, entitled, "an act to provide for condemning lands and materials for the construction of turnpike roads, and other works of internal improvement," approved February 22d, 1836, and "an act which provides for condemning lands and materials for works of internal improvement," approved February 23, 1837, and the further act, entitled, "an act authorizing the condemnation of lands for toll-houses," approved February 23d, 1839.

Condemnation of land.

§ 14. When the whole or any part of said contemplated works shall be completed, suitable to the passage of vessels, boats, or other craft, drawing sixteen inches, in low stages of the water, the president and directors, by themselves or agents, shall have power and authority to demand and receive from the owner or owners, masters or supercargoes of all vessels, boats, or other crafts, ascending or descend-

Rates of toll.

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ing said river, at each lock, before such vessel, boat, or other craft shall be permitted to pass the same, such rates of toll as shall be determined upon by said president and directors, subject to the restrictions and regulations hereinafter named; which rates of toll shall be posted up in some conspicuous place at each lock; and no other or greater toll shall be demanded than those thus posted: *Provided, however,* that said rates of toll shall be determined and declared at the annual meeting of the board, and not oftener, unless the same shall be done under the direction of the legislature of Kentucky, as hereinafter provided.

Penalty for
passing locks
without paying
toll.

§ 15. If any person or persons, liable to pay toll, as aforesaid, at any or either of the locks erected in pursuance of the aforesaid provisions, shall, with the intent to defraud said company, pass any such lock, making use of the same to facilitate their passage, with or without the knowledge of the agent, toll gatherer, or gate keeper, or shall practice any fraudulent device, with intent to lessen or evade the payment of any such toll, such person or persons, so offending, shall, for every such offense, respectively, forfeit and pay to the president and directors the sum of fifty dollars, recoverable in like manner as other debts of equal amount, in the name of the said company. And if any person or persons shall willfully do any act or thing whereby said work, or any lock, dam, gate, slope, or other appurtenance thereto, shall be injured or impeded, or shall commit any willful trespass, or take and carry away and conceal any material, instrument, tool, or other thing of value, belonging to or used in and about said works, he, she, or they, so offending, shall forfeit and pay to said company double the value of the thing taken, or the cost or damage sustained by means of such willful act of trespass, to be recovered as aforesaid; and in case of feloniously and clandestinely taking and carrying away any material, instrument, tool, or other valuable thing, as aforesaid, belonging to said company, he, she, or they, so offending, shall be liable to prosecution for felony, as under the existing laws.

Gate-keepers
to execute bond.

§ 16. The president and directors of said company shall take bonds, with good security, from the gate keepers, lock tenders, or other persons employed by them, for the faithful discharge of the duties assigned to them, respectively; which bonds they may cause to be renewed whenever they may deem it necessary; and said bonds shall be made payable to the company aforesaid.

Directors to
keep account of
receipts, &c.

§ 17. The president and directors shall keep, or cause to be kept, a fair and just account of all money which shall be received by them from the subscribers of the stock in said company, and of all moneys expended by them in the prosecution of said work, and all costs, charges, and ex-

penses of clearing away trees, removing drift wood and other obstructions, and of erecting any and every work, dam, lock, gate, or other building or appurtenances, and of keeping the same in repair; and of all moneys by them received in the way of tolls, rents, or duties of any and all kinds whatsoever; and on the first day of January, in each year, after the said work is, in whole or in part, completed, shall have the same made up, and the balance of profits struck and divided among the stockholders; and if it shall appear from the report so made, as aforesaid, under the oaths of the president and directors, that the profits, so divided, or to be then divided, do not net the amount of six per cent. per annum on the capital expended, the president and directors shall be authorized to add to the tolls for the succeeding year, until the net profits, after deducting all expenses, repairs, and necessary improvements, shall amount to the sum of six per cent. per annum. But should it appear from the aforesaid report, that the net profits exceed six per cent. per annum, the legislature reserves the right to reduce the rates of tolls, so that the net profits shall not exceed six per cent. per annum, as aforesaid.

§ 18. The work done, the stone, timber, gravel, and other materials collected, the quarries cleared, and the lock sites purchased, be and the same are assigned to the said Licking river navigation company; and the governor is hereby authorized to convey them to said company: *Provided, however*, that said conveyance and grant shall not be consummated until it shall satisfactorily appear to the governor that one thousand shares of the capital stock of said company has, in good faith, been subscribed: *and, provided further*, that when said conveyance is made, the company shall not be required to declare a dividend thereon, but the same shall be taken as a donation by the state to said company.

§ 19. The commonwealth shall have, and now reserves to herself, at any time after the expiration of fifteen years after the passage of this act, to buy out the stock of said company from the stockholders, upon the payment of the amount of said stock, with interest at the rate of six per cent. per annum, less the dividends yearly declared and paid by the company, computing said interest from the time said stock shall be paid to the treasurer: *Provided*, that in the purchase of the stock by the state, the state shall only be required to repay to the company the amount of money actually expended by the company, with six per cent. per annum interest thereon, less the dividends aforesaid.

§ 20. The said company are hereby required to commence the work for the improvement of said river within two years from the passage of this act, and complete the same to the mouth of Fleming creek, in Nicholas county, within ten years.

1852.

Dividends.

State property
surrendered to
the company.

State may buy
out the stock of
said company.

Work to com-
mence within 2
years.

1852.

Capital stock
may be increas-
ed.

Bonds to be
issued.

Company may
use water power
created by their
dams.

Who to sub-
scribe stock.

Certain craft
not to pay toll

When charter
to be forfeited.

Navigation not
to be impeded.

§ 21. The said company may, by their president and directors, increase the amount of their capital stock to any amount not exceeding three million of dollars.

§ 22. The president and directors of said company may issue the bonds of said company, which bonds shall not exceed, in the aggregate, the amount of the capital stock of said company that may at the time be subscribed by good and solvent subscribers. The said bonds may be made to run for a period not exceeding fifty years, and may bear interest at a rate not exceeding seven per cent. per annum, and may be sold at such place and at such rate of discount as the said president and directors may deem advisable; and the said president and directors are authorized to execute a deed of trust, or mortgage, of the real and personal property and chartered privileges of said company, to secure the prompt payment of the principal and interest of said bonds.

§ 23. The said company are authorized to use any water power that may be created and made available by the erection of their dams and locks, or may sell or lease the same to individuals or corporations, for manufacturing or other purposes; and to enable the same to be made available, the said company may enter upon any lands, and take therefrom such materials as may be necessary in and about rendering said water power available. They shall also have the right to locate races and sites for mills and other manufacturing purposes; and in case the said company cannot, with the owner of the land, arrange the price of the land and materials so to be taken and enjoyed by said company, then they may proceed to condemn the same, in the same manner that is provided for condemning lands, &c., for locks, dams, lock-houses, &c., in the 13th section of this act.

§ 24. The capital stock of said company may be subscribed by individuals or by corporations.

§ 25. Any and all flatboats, rafts, or crafts, not propelled by steam, which may descend said Licking river from a point above the influence of slackwater, in descending said river, shall be permitted to pass the locks of said company without paying toll.

§ 26. If the said company shall fail to commence the improvement of said river within two years, and complete the same as far as the mouth of Fleming creek within ten years, they, the said company, shall forfeit their charter, and all the rights and privileges by this act granted.

§ 27. If, at any time, the navigation of said river be hindered or impeded, or in any manner injured by means of the use of the water power created by the erection of the locks and dams aforesaid, any of the courts, of competent jurisdiction, of any of the counties along said river, is hereby empowered and authorized to enjoin and restrain the

said company from the enjoyment and use of said water power, so long as said use and enjoyment continues to be a hindrance or injury to the navigation of said river, as aforesaid; and the application for restraining and enjoining, as aforesaid, may be made to such court, as aforesaid, by any person who may feel himself aggrieved by such hindrance or injury: *Provided*, such person, before suing out such order, shall comply with the law regulating similar proceedings in other cases.

1852.

Approved January 9, 1852.

CHAPTER 469.

AN ACT to change the time of holding the August term of the Laurel Quarterly Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the August term of the quarterly court of Laurel county shall be held on the second Monday in August in each year, instead of the time now provided by law.

Approved January 9, 1852.

CHAPTER 470.

AN ACT concerning Common Schools in the city of Lexington.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the mayor and council of the city of Lexington are hereby authorized to appoint a commissioner to ascertain and report to them, annually, the number of free white children in said city, between the ages of six and eighteen years; and that the number, so ascertained and reported each year, shall, from time to time, be the basis upon and according to which the said city shall receive its annual proportion of the school fund of Kentucky.

Approved January 9, 1852.

CHAPTER 471.

AN ACT to incorporate the Kentucky River Navigation Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Jacob Swigert, Harry I. Todd, R. K. Woodson, and D. S. Orockett, of the county of Franklin; David Thornton, R. R. Bailey, Harrison Brown, and William Graddy, of the county of Woodford; J. C. Wilmore, Tucker Woodson, and Thomas T. Cogar, of the county of Jessamine; Alvin Herndon, David Bond, and James Ferguson, of the county of Anderson; Samuel Daviess,

Corporators.

1852.	<p>Christopher Graham, W. S. Chaplin, and George Thompson, of the county of Mercer; R. Pindell, J. F. Bullock, John G. James, and George Robertson, of the county of Fayette; Stephen Goggin, Thomas Broadus, Thomas Richardson, Abner Oldham, Samuel Halley, John Noland, Walter Chenault, Mile Baxter, James Dejarnett, David Irvine, Daniel Breck, E. H. Field, Jacob S. White, and William Terrill, of the county of Madison; George R. McKee, S. T. Leavell, Gabriel J. Salter, George Bowman, and Robert Miller, of the county of Garrard; Hiram McGuire, John S. McGuire, J. W. Seal, and Jacob Howerton, of the county of Owsley; William G. Jackson, Josiah Park, Ansel Daniel, E. D. Stockton, and Sidney M. Barnes, of the county of Estill, be and they are hereby incorporated as a body politic and corporate, to be known as the Kentucky river navigation company; and, by that name, shall have perpetual succession, and all the privileges and franchises incident to a corporation; shall be capable of taking and holding their capital stock, and the increase thereof; to contract and be contracted with, sue and be sued, in all the courts of this commonwealth and elsewhere; and shall have power to ordain and establish such by-laws, rules, and regulations for the government and control of the affairs of the company, as shall be deemed necessary, not being inconsistent with this act, nor the laws and constitutions of the United States and the state of Kentucky.</p>
Corporate name and powers.	<p>§ 2. That the business of said company shall be the improvement of the navigation of the Kentucky river from lock No. 5, on the Kentucky river, to the three forks, in Owsley county, which shall be done by the erection of as many locks and dams as they may think necessary.</p>
Objects of the company.	<p>§ 3. The capital stock of said company shall not exceed six hundred thousand dollars, to be divided into shares of fifty dollars each.</p>
Capital stock.	<p>§ 4. That said company shall have the right to have not exceeding one acre of ground on each side of said stream, to be laid off in reasonable shape, at the place where they may wish to erect any abutment, or any dam they may determine to build, which land may be condemned and valued in the same manner that lands are authorized to be condemned for the use of the Louisville and Frankfort railroad company; and when the company shall have paid the damages, the owner thereof shall convey the same to said company.</p>
Condemnation of land.	<p>§ 5. That said company shall be liable to any individual, company, or corporation, for any damages that may result in consequence of the overflowing of any lands, and for the obstruction of any water power or other vested rights, or for any damage which may result in any manner whatever by the erection of said dams; and said company shall</p>
Company liable for damages resulting from overflows.	

not have the right to erect a dam which will raise the water above fifteen feet from low water mark.

§ 6. That the corporators named in the first section of this act, or any two of them, may open books for the subscription of stock to said company; and a majority of them shall have power to determine at what times and places said books shall be opened, and to appoint suitable persons, if necessary, to attend to the same. When, in the opinion of said corporators, a sufficient amount of stock shall have been subscribed to build one lock and dam upon said river, they shall call a meeting of the stockholders, by advertising as they may think proper; at which meeting, the stockholders shall proceed to elect a president and nine directors, who shall hold their offices one year, or until their successors are elected. Said president and directors shall have the management and control of the affairs of said company. At the meeting so held, the stockholders shall fix upon a time for the annual election of the officers by the stockholders.

§ 7. If, at any meeting of the stockholders, a majority of them should fail to attend, in person or by proxy, the election shall be postponed by the president to some further day; and if a majority should fail to attend on that day, the election shall be postponed until the next annual election.

§ 8. That in all elections, the stockholders shall vote in person or by proxy. The president and directors shall adopt some rule for the verification of proxies. Each stockholder shall have one vote for every share of stock he may hold up to twenty, and one vote for every two shares he may own over twenty and not exceeding fifty; and one vote for every five shares he may hold over fifty.

§ 9. The president and directors of said company shall keep a record of all their proceeding. They shall appoint a treasurer, who, before he enters upon the duties of his office, shall enter into bond with good security, to be approved by the directors, with such conditions as they may prescribe. The duty of the treasurer shall be to keep the books and accounts of the company, to receive and take charge of all moneys due the company, to pay out such sums only as he may be authorized to do by order of the president and directors. He shall exhibit to the stockholders, at the annual meeting, a statement of the finances of the company, showing the receipts and expenditures, and such other information as he may be required to give touching the finances of the company.

§ 10. The president and directors shall have power to appoint as many agents, managers, engineers, and artists as they may deem proper.

§ 11. The president and directors shall have the power to make any call upon the capital stock subscribed, not ex-

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Books to be opened.

Organization.

Election of directors.

Annual election.

Number votes.

Record.

Treasurer to execute bond.

Agents.

Calls on stock.

1852.

ceeding twenty per cent., nor oftener than once in three months. They shall have power to sue for and recover any calls that may be due from the stockholders, when unpaid for a longer period than one month, or may forfeit to the company when the holders thereof shall suffer the call made thereon to remain unpaid for a longer period than one month.

Certificates.

§ 12. The president and directors shall have power to issue certificates of stock to the several stockholders, which may be assigned by indorsement thereon, made in the presence of the president, and a minute thereof made by him in a book kept for that purpose: *Provided*, that no assignment shall release the original holder from the payment of any calls that may be due, or may afterwards become due on the same.

Tolls.

§ 13. When any lock and dam shall have been completed so as to admit of the passage of boats, rafts, flats, &c., through the lock, the president and directors, by themselves or agents, shall have the right to demand and receive from the owner, or captain, or other officer of any boat, raft, flat, or float, or other craft, passing through the same, before the same shall be permitted to pass, such rates of toll as shall be prescribed by the president and directors: *Provided*, that the tolls fixed shall always be subject to the revision of the board of internal improvement of Kentucky, or the general assembly.

Property to be taxed.

§ 14. All property belonging to said company shall be liable to taxation, and shall be listed for taxation by the president, in the same manner as the property of individuals is required to be listed.

State may buy out company.

§ 15. The state of Kentucky shall have the right, at any time, to buy out the interest of said company in the locks and dams they may erect, by paying the original cost of construction with five per cent. interest on the same.

Work to be commenced in two years.

§ 16. Said company is hereby required to commence the work upon said river within two years from the passage of this act, and to complete the same by the first day of January, 1861, under the penalty of a forfeiture of their charter, and all the privileges and rights conferred thereby.

Repealing power reserved.

§ 17. The general assembly reserves the right to alter or repeal this charter at any time: *Provided*, the same shall not interfere with vested rights.

Approved January 9, 1852.

CHAPTER 473.

AN ACT for the benefit of District No. 4, in Grant county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the superintendent of public instruction be directed to draw his warrant on the treasury for the

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sum of seventeen dollars and eighty cents, to be paid over to the trustees of common school district No. 4, in Grant county, for the benefit of Adam R. Walker, for a school taught by him in the year 1849.

1852.

Approved January 9, 1852.

CHAPTER 474.

AN ACT to change the voting place in District No. 3, in Hart county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the voting place in district No. 3, in Hart county, be changed from the house of Richard Lobb to Hammons ville.

Approved January 8, 1852.

CHAPTER 475.

AN ACT to repeal an act, entitled, an act to empower the Trustees of Williamsburg to sell a part of a street in said town.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act to empower the trustees of Williamsburg to sell a portion of a street in said town, approved November session, 1851, be and the same is hereby repealed.

Approved January 9, 1852.

CHAPTER 477.

AN ACT to amend the charter of the Frankfort and Lawrenceburg Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for said company to construct the road, contemplated to be constructed by the original charter, of such width as they may deem proper: *Provided,* the part covered with metal shall not be less than fourteen feet in width at any place; and when said company shall have completed said road, or any four continuous miles, in such manner as is directed in the charter and this amendment, it shall be lawful for said company to cause all that part of the state road leading from Frankfort to Lawrenceburg, which runs parallel with said road, and within one mile of the same, to be closed up, and from that time so much of said state road shall be discontinued.

Approved January 9, 1852.

1852.

CHAPTER 478.

AN AOT to change the mode of working roads in Daviess county.

Vote on adoption of this act.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That on the first Monday in August next, a poll shall be opened at all the precincts in the county of Daviess, to take the sense of the people of said county as to their wish to change the present mode of working the roads in said county, so that every person now subject to work on said roads be absolved therefrom, by the payment of one dollar each, per annum, to the sheriff of said county, or to his deputy, to be appropriated to employing a regular company of hands, under the direction of a competent overseer, to have said work done.

Question to be put to each voter

§ 2. At said election, whenever a lawful voter presents himself to vote, the judges of the election shall put to him the following question: "are you for or against the proposed change in the road law?" And said judges shall cause his answer to be recorded as given; and upon comparing the polls, which shall be done in the usual manner, if a majority of the votes cast shall be found in favor of said change, then the sheriff of said county shall proceed, as he collects the county levy, to collect one dollar per head from every hand heretofore liable to work roads, or from the owner of a slave; and the said tax shall be due and payable by the first day of December following: *Provided, however*, that any one who may prefer the present mode of working roads, shall not be bound to pay said tax; but, in default thereof, shall give the superintendent of the road hands four days labor for every hand liable to work on roads he may own, during the year, when called upon so to do, and on failure, shall be liable to the penalties now in force for failing to work roads; and the superintendent shall have all the powers of the present road overseers to enforce the same.

When sheriff to collect a tax.

Any one may work under present road law.

Mode of working the roads.

Superintendent.

To report to clerk of court.

§ 3. Until otherwise ordered, the mode of working roads in said county shall be as follows: the county judge, together with the justices of the peace of said county, shall elect a superintendent of the road hands, who shall have power to employ hands, purchase an ox-cart, scraper, ploughs, and other necessary implements for working the roads; also a tent or tents, with cots, mattresses, and bed clothing, cooking utensils and white wares for boarding the hands who may be employed. The county judge, together with the justices of the peace, a majority of those acting concurring, shall fix the salary of the superintendent, and adopt such rules and regulations for his government, and for the government of his hands, and the mode of working the roads, as they may deem advisable.

§ 4. The superintendent shall make a report to the clerk of the county court of all the work done, specifying the same, with the measurement thereof, and the total cost, as

well as an estimate of the cost of excavations per cubic yard, and of bridging per square of one hundred feet, and with other estimates of such work as may not come under the aforesaid classes, and make oath that the same is correct, to the best of his knowledge and belief; whereupon, the clerk of the county court shall certify the same, and copy it in a book to be kept for that purpose, which shall be denominated the county road book. After copying it, the judge of the county court shall, upon the back of the said certified report, give an order upon the sheriff of said county for the amount thereof, who shall be previously notified by the superintendent, at least ten days in advance, of the probable amount of his demand; and it shall be the duty of the sheriff to have the said amount deposited in the branch of the southern bank of Kentucky, at Owensboro, ready to meet the demand of the superintendent, whenever he receives the order of the county judge therefor.

§ 5. Whenever the superintendent shall call for any amount of expenditure, after the first month, it shall be his duty to return vouchers for previous payments, or furnish satisfactory reasons to the county court for not doing.

§ 6. In any case where the superintendent shall deem it advisable to change the road; either to obtain a leveler or straighter way, he shall apply to the owner of the land, where he resides in the county, or notify him by advertisement thirty days in advance, that he will summon a jury of twelve men to assess the damages, if the owner shall refuse to assent to the desired change; and such jury shall attend upon the summons of the superintendent, and assess the damages done by such change, which shall be paid by the county as similar damages are now paid.

§ 7. As the object of this act is to procure the making of as much good road as is possible, within the county of Daviess, by said road workers, it is to be understood that they shall not be called upon to perform work which is usually paid for out of the county levy. But upon an estimate, assented to by the superintendent, of the cost of any work required, the superintendent may have the same executed under his direction, by having the estimated cost thereof added to the road fund from the county levy; and the said superintendent shall employ an additional number of hands to execute such additional work.

§ 8. When the roads in the county shall have been put generally in good order, then the road workers may proceed to take one road at a time, and make it permanently good, by turnpiking or gravelling, or in any other way; and when such work is done, the county court may add any part of the county levy which can be spared from other purposes, to construct said road.

§ 9. Should it be deemed advisable by the county judge and

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Duties of clerk,
judge and sheriff

Superintendent
to furnish vouchers.

He may change
road, and how.

Damages.

Duty of road
hands.

Further duties.

1852.

County court
may appoint five
commissioners.

the justices of the peace, they may appoint five road commissioners, to act in the places of the justices of the peace, and with all their powers, as set forth in this act; the county judge acting with said commissioners as he would do with the justices of the peace.

Term of service
superintendent.

§ 10. The term of service of said superintendent shall not exceed one year, unless re-elected; but the electing power may notify him that his services will not be needed at any given time, when he shall go out of office, if, in their opinion, the interests of the county require it.

Pay of com-
missioners.

§ 11. Should it be deemed advisable to appoint a board of commissioners, as aforesaid, the county judge and justices of the peace may allow them a per diem compensation for their services, which may be deemed reasonable; said commissioners shall remain in office one year, when a new election shall take place.

Term of office.

Power of sheriff.

§ 12. The sheriff of said county shall have the same power to collect the road tax, and be allowed the same commission for collecting and paying over the same, as he is allowed for collecting and paying over the county levy.

Annual settle-
ment.

§ 13. At the end of each year the sheriff shall render to the county court a full statement of the amount of road tax collected by him, the amount paid over to the superintendent, and the balance, if any, on hand, which he shall have deposited in said branch bank, subject to his order in favor of the superintendent, which, however, shall only be given when the judge of the county court shall so order, as herein before provided.

Approved January 9, 1852.

CHAPTER 479.

AN ACT to incorporate Warsaw Division, No. 59, Sons of Temperance.

Corporate name
and powers.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of Warsaw division, No. 59, sons of temperance, in Warsaw, Gallatin county, be and they are hereby created a body politic and corporate, by the name and style of Warsaw division, No. 59, sons of temperance, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, of purchasing and holding all such real and personal estate as may be required for the use of said division; to receive all necessary conveyances, to sell, convey, and dispose of all such real or personal estate as they may now have or may hereafter acquire: *Provided*, the amount vested in real estate, exclusive of buildings thereon, shall at no time exceed twenty thousand dollars.

Contracts.

§ 2. That the management of the concerns of said corporation shall be and is hereby confided to five trustees, and their successors in office, who, or a majority of them,

shall have full power and authority to make all contracts pertaining to the real or personal estate of said division.

1852.

§ 3. That the trustees of said corporation may have, make, and use a common seal, which they may change or alter at pleasure; and the members of said division may make such by-laws, rules, and regulations touching the management and control of the real and personal estate belonging to said division, as they from time to time may choose: *Provided*, they be not inconsistent with the constitution and laws of the United States or this state.

Powers of the trustees.

§ 4. That Barnett R. Johnson, Robert Russell, William H. Winters, G. M. Child, and Joseph F. Martin be and they are hereby appointed trustees, as provided for in section second hereof, and shall hold their offices until the last Saturday in September, 1852, and until their successors are appointed; and it shall be the duty of the members of said division, on the last Saturday in September, 1852, and on the last Saturday in September every year thereafter, to elect five members of their own body to act as trustees for one year, or until their successors are duly elected; and the service of process or notice on any two of said trustees shall be sufficient service and notice for all.

Their names; when elected.

§ 5. The legislature hereby retains the power to alter, change, modify, or repeal this act at pleasure.

Right to repeal reserved.

Approved January 9, 1852.

CHAPTER 480.

AN ACT declaring Wolf Creek navigable.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Wolf creek, in Lawrence county, be and is hereby declared a navigable stream: *Provided*, that nothing herein contained shall be so construed as to authorize the destruction of any mill dam on said creek, theretofore constructed.

Approved January 9, 1852.

CHAPTER 481.

AN ACT to amend the charter of the Nicholasville and Jessamine Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all persons, and their property, residing in the county of Jessamine, traveling on the dirt road (known as the shunpike) to and from the town of Nicholasville, shall and may pass through the toll gate erected near the town of Nicholasville, by the Nicholasville and Jessamine county turnpike road company, free of toll.

Approved January 9, 1852.

1852.

CHAPTER 482.

AN ACT to amend the charter of the Augusta, Cynthiana, and Georgetown Turnpike Road Company.

WHEREAS, it is represented that nine miles and a quarter of the Augusta, Cynthiana, and Georgetown turnpike road have been completed, and is ready for travel, and the charter of said road company does not admit of but one toll gate for every five miles; and that it is right and proper for said company to have the privilege of erecting two gates on said finished road; and that the tolls allowed to be collected are too high. Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the president and directors of the Augusta, Cynthiana and Georgetown turnpike road company be and they are hereby authorized to erect two toll gates on the nine and a quarter miles of said road now completed: *Provided,* said gates are erected not less than one mile from any city or town, and not less than five miles from each other; and said president and directors shall have a right to diminish the tolls on said road.

Approved January 9, 1852

CHAPTER 483.

AN ACT amendatory of an act to incorporate the Danville, Somerset, and Knoxville Railroad Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act to charter a railroad company from Danville, via Somerset, to Knoxville, Tennessee, passed at the November session, 1851, be so amended as to require a majority of all the qualified voters of the several counties, cities, and towns through which said road shall run, to vote in favor of authorizing the subscription of stock, the imposition of a tax, or the issuing of bonds, before said stock shall be subscribed, the tax imposed, or said bonds issued.

Approved January 9, 1852.

CHAPTER 484.

AN ACT for the benefit of Harry Stratton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Harry Stratton, administrator for S. C. Stratton, deceased, be allowed the further time of one year to collect the arrearages of taxes and fee bills due the said S. C. Stratton, as sheriff and justice of the peace for Floyd county: *Provided,* that no fee bill shall be collected that is barred by statutes of limitation.

Approved January 9, 1852.

CHAPTER 485.

1852.

AN ACT to incorporate North Middletown Royal Arch Chapter, No. 26, and Morrison Lodge, No. 103, of Free and Accepted Masons.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of North Middletown royal arch chapter, No. 26, of ancient free masons, in North Middletown, in Bourbon county, be and they are hereby created a body politic and corporate, by the name and style of North Middletown royal arch chapter, No. 26, with perpetual succession; and, by that name, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of purchasing and holding all such real and personal estate as may be required for the use of said chapter; to receive all necessary conveyances, and to sell, dispose of, and convey all such real and personal estate as they may now have, or hereafter acquire: *Provided*, the amount vested in real estate, exclusive of buildings thereon, shall at no time exceed three thousand dollars.

Corporate name and powers.

§ 2. That the management of the financial concerns of said corporation shall be and is hereby confided to John C. Hall, Jonathan D. Hearne, John A. Sydnor, Joseph U. Stewart, and Thaddeus U. Stewart, for the time being, and their successors in office, as trustees thereof, who, or a majority thereof, shall have full power to make all contracts, not inconsistent with this act, or in opposition to the by-laws and instructions of said chapter.

Trustees.

§ 3. That the aforesaid trustees shall hold their offices until the regular meeting of the chapter in August, 1852, and on that day, and on the regular meeting of each succeeding August, the members of said chapter shall elect their trustees, in default of which the existing board of trustees shall continue to hold their offices until there be such election held.

Term of office.

Election.

§ 4. That the members of Morrison lodge, No. 103, of free and accepted masons, in the town of Danville, be and they are hereby created a body politic and corporate, by the name and style of Morrison lodge, No. 103, with all the powers, rights, and privileges granted above to North Middletown royal arch chapter, No. 26, except that the master and wardens, for the time being, of said lodge, and their successors in office, shall have and exercise the powers above granted, as trustees of said lodge.

Morrison lodge incorporated.

Approved January 9, 1852.

CHAPTER 486.

AN ACT to charter the Knob Lick Turnpike Road Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company is hereby created,

1852. Corporate name	under the name and style of the Knob Lick turnpike road company, for the purpose of making an artificial road from or near the intersection of the Knob Lick road with the Stanford and Hustonsville turnpike road, to the Danville and Hustonsville turnpike road at or near Shelby's meeting house, in Lincoln county.
Capital stock may be enlarged	§ 2. That the capital stock of said company shall be fifteen thousand dollars, divided into shares of fifty dollars each; and if it shall be found that said capital stock is not sufficient to complete said road, then the president and directors may increase the same, and open books for its subscription.
Opening of books.	§ 3. That books for the subscription of said stock shall be opened the second Monday in February, 1852, or as soon thereafter as convenient, at Stanford, or any other town or place in Lincoln county, under the direction of
Commissioners.	Richard W. Givens, Samuel W. Givens, James Crow, Henry C. Bright, John W. Gilbert, and Henry Thurman, or any three of them who may act. The subscribers of stock shall sign, in a book provided by said commissioners, an obligation, as follows: "We, whose names are hereunto affixed,
Contract.	do severally promise to pay the president and directors of the Knob Lick turnpike road company, the sum of fifty dollars for each share annexed to our respective names; as witness our hands this day of 18 ."
Books to be opened; notice thereof.	The said commissioners shall give notice, by written or printed advertisements, of the time and place of opening books of subscription, at least two weeks before the time, and may continue them open until the capital stock shall be taken: <i>Provided</i> , that if, from any cause, the books should not be opened on the day fixed above, or the stock should not be fully taken, then the said commissioners may open the same at any time they may fix, within three years from the passage of this act, and proceed as is directed in this act.
Organization.	§ 4. That whenever the sum of three thousand dollars shall have been taken, it shall be the duty of the said commissioners to advertise the same, by printed or written advertisements, in Stanford, Shelby's meeting house, and other public places in Lincoln county, and calling the stockholders together at such time and point as they may designate in such notice, and who, when called together, shall proceed to elect from their number a president, treasurer, secretary, and five directors of said road, each of whom
Election of officers.	shall, before entering on the duties of his office, take an oath before some justice of the peace to honestly, justly, and faithfully perform their respective duties; a certificate of which shall be recorded by the secretary in the books of the company. The treasurer shall execute bond, with good security, in such penalty and conditions as the president and directors may prescribe, payable to the president, directors, and company of the Knob Lick turnpike road;
Bonds to be executed.	

which bond shall be preserved by the secretary. The said officers shall hold their offices during one year, and until their successors shall be duly elected and qualified: *Provided*, no one shall hold either of said offices unless he is a shareholder in said road; and that, in the election of said officers, each shareholder shall have one vote for each share he holds. That the said president, directors, and company shall be a body corporate, under the name and style of the president, directors, and company of the Knob Lick turnpike road; shall have perpetual succession, may sue and be sued, plead and be impleaded, in all courts of law and equity having jurisdiction of the subject matters; and do and perform all things that like corporate bodies may do.

§ 5. That it shall be the duty of the said president and directors to let out two or more miles of said road, whenever three thousand dollars of the said capital stock shall be taken, and the remainder when they may think a sufficient amount of stock has been taken to complete the road; that they may let out any portion of said road to be made of stone, gravel, or plank, not to be of a greater elevation than three degrees, not be less than forty nor more than sixty feet in width, and the McAdamized part of gravel, stone, or plank, not to be less than twelve nor more than sixteen feet in width, as they may deem proper. That they may let out any portion of said road to be paid for in the stock of said company, provided it does not exceed the engineer's estimate.

§ 6. That the Lincoln county court may take stock in said road, and, to pay for the same, may levy such a tax on each one hundred dollars worth of property in said county, subject to said tax, as will be sufficient for that purpose.

§ 7. That the provisions, from the fifth to the thirty-fifth section, inclusive, of the Danville and Hustonsville turnpike road charter, approved March 1st, 1844, be and the same are hereby made part of this charter, so far as it does not conflict with this act.

§ 8. That the provisions of an act, entitled, an act for the benefit of turnpike roads in Lincoln county, approved March 24, 1851, be and the same are hereby re-enacted for the benefit of the road company incorporated by this act.

Approved January 9, 1852.

CHAPTER 488.

AN ACT to create the offices of Police, Judge and Marshal in the town of Mount Vernon.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the office of police judge and marshalls

1852.

Term of office.

Corporate
person.

When work
may commence.

Grade of road.

Lincoln county
court may take
stock.

Further privi-
leges granted.

<u>1852:</u>	hereby created in the town of Mount Vernon, Rockcastle county.
<u>Election.</u>	§ 2. That the qualified voters of said town, and individuals owning real estate therein, shall, on the first Monday in February, and on the first Monday in April every year thereafter, elect a police judge and marshal for said town, to serve for the term of twelve months, and until their successors are qualified. The police judge shall be commissioned by the governor, and, before he enters upon the discharge of the duties of his office, shall take the oaths prescribed by the constitution.
<u>Term of service.</u>	§ 3. The police judge shall have the same jurisdiction in criminal and penal cases that two justices of the peace have, and the same shall be coextensive with the county; he shall have the same jurisdiction that a justice of the peace has in civil cases, to the limits of said town; he shall have the right to grant injunctions, restraining orders, and attachments.
<u>Marshal to execute bond.</u>	§ 4. The marshal, before he enters upon the discharge of the duties of his office, shall execute to the board of trustees a bond, with good security, conditioned to discharge the duties of his office, upon which he may be sued for any violation of the same.
<u>His jurisdiction and fees.</u>	§ 5. The marshal shall have jurisdiction coextensive with the jurisdiction of the police judge, and shall be entitled to the same fees that constables are entitled to for like services.
<u>Fees of police judge.</u>	§ 6. The police judge shall be entitled to the same fees that justices of the peace are entitled to for like services.
<u>Trustees to conduct election</u>	§ 7. The elections mentioned in this act shall be conducted by the board of trustees.

Approved January 9, 1852.

CHAPTER 489.

AN ACT to provide for an additional Magistrates' District, No. 9, in Caldwell County.

<u>Extent of district.</u>	§ 1. <i>Be it enacted by the General Assembly of the Commonwealth of Kentucky,</i> That an additional magistrates' and constable's district, No. 9, with an election precinct at Suwanee Iron Works, in Caldwell county, be and the same is hereby established: <i>Provided,</i> that the boundary line of said district shall not exceed one-half the distance from said Suwanee Iron Works to the adjoining precincts, or places of voting in the adjoining districts, in the said county of Caldwell, as now established by law.
<u>Commissioners.</u>	§ 2. That John F. Kelly, Solomon W. Martin, and James Hawley, (any two being competent to act,) be and they are hereby constituted commissioners, whose duty it shall be to lay off and report a plain and accurate boundary of said

district to the Caldwell county court, on or before the March term, 1852; whereupon, the court shall order the same to be recorded; and it shall be the duty of the clerk to transmit a copy of the report to the secretary of state, to be by him filed with the previous report of the commissioners from Caldwell county.

1852.

§ 3. That an election for two magistrates and one constable shall be had, at the precinct so located, on the last Monday in May, 1852; for which purpose, it shall be the duty of the county court of Caldwell county to issue a writ of election, on or before the March term of said court, in the same manner that writs of election are now required to be issued to fill vacancies in the office of magistrates and constable; and it shall be the duty of the proper officers of this commonwealth to do and perform every act, as provided for by law, that may be necessary and proper to carry into effect the provisions of this act.

Election.

§ 4. That the terms of office herein provided for shall expire at the same time, and upon the same conditions, that the terms of office expire of those magistrates and constables who were elected in May, 1851, so that elections of such officers, in future, may be uniform throughout the county.

Term of office.

Approved January 9, 1852.

CHAPTER 490.

AN ACT to establish and incorporate the town of Bloomington, in Franklin county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that tract or parcel of land situated and being in the county of Franklin, on the waters of Main Elkhorn, and on the road leading from the city of Frankfort to the town of Owenton, containing eight acres three roods and thirty-seven poles, and which has been laid off into lots, with suitable streets and alleys, by Reuben L. Hawkins, the owner thereof, shall be and is hereby established as a town, to be known and called by the name of Bloomington.

§ 2. That John R. Gay, Fountain T. Haydon, John C. Bates, Benjamin Hoyle, and James J. Long are hereby appointed trustees of said town, to continue as such until the first Monday of January, eighteen hundred and fifty-three, and on that day, and on the same day in each succeeding year, an election shall be held for five trustees of said town. The trustees hereby appointed, and their successors, before entering upon the duties of their office, shall take an oath before some justice of the peace, faithfully and impartially to execute the duties imposed upon them as trustees; a certificate of which shall be entered upon the record of

Trustees.

1852.
Term of office.

their proceedings. The trustees hereby appointed, shall continue in office until their successors shall be duly elected and qualified. Any vacancy, occurring from any cause, shall be filled by the remaining trustees, by the appointment of another trustee.

Style of corporation; powers of trustees.

§ 3. That the trustees of said town, and their successors, shall be and are hereby created a body corporate and politico, by the name and style of the trustees of the town of Bloomington; and, by that name and style, shall have perpetual succession, may have and use a common seal, may sue and be sued, plead and be impleaded, in all courts and places; shall have and possess the power to make by-laws and ordinances, such as they may deem necessary and proper, for the management of the affairs of said town: *Provided*, the same be consistent with the constitution and laws of this commonwealth.

Trustees may direct improvement.

§ 4. That the streets and alleys of said town, as laid out, shall be and are hereby vested in the trustees of said town; and full power and authority is hereby given them to direct the improvement of the same; and, for this purpose, may make such orders in relation thereto as they may deem necessary and proper, and enforce the same by annexing thereto such penalties for a violation thereof as they may deem needful.

Officers to be appointed.

§ 5. The said trustees shall appoint a clerk, treasurer, assessor, and such other officers as they may deem necessary; prescribe the term for which they shall continue in office, fix their respective duties, require bonds from them, in such penalties and with such conditions as they may prescribe, and make such allowance to them as they may deem reasonable and just, for their services.

§ 6. The said trustees are hereby vested with full power to assess, levy, and collect a poll tax on all the inhabitants of said town, subject to county levy tax, not exceeding one dollar and fifty cents upon each tithe, and an *ad valorem* tax on the property, real and personal, in said town, not exceeding fifty cents on each one hundred dollars worth; and to cause such tax to be expended in the improvement of said town, in such manner as they may deem expedient.

Record.

§ 7. The said trustees, and their successors, shall cause a record of all their proceedings to be kept in a book to be provided for that purpose; and shall also cause a plan and plat of said town to be made out and recorded in the clerk's office of the Franklin county court, upon which the streets and alleys thereof shall be plainly marked and designated, and the number and boundary of each lot therein defined and marked; which plan and plat, when so made out and recorded, shall be taken and regarded as evidence in fixing the location of the streets and alleys of said town, and the boundary of lots therein.

Approved January 9, 1852.

CHAPTER 491.

1852.

AN ACT to provide for the annexation of the town of Portland to the city of Louisville.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it may be lawful for the trustees of the town of Portland to cause a poll to be opened for the purpose of ascertaining the sense of the qualified voters of said town in regard to the annexation of the town of Portland to the city of Louisville; and should a majority of the qualified voters be cast in favor of annexation, and the authorities of the city of Louisville consent to the annexation of said town of Portland to the city of Louisville, then, in that case, it shall be lawful to extend the jurisdiction of said city of Louisville over the present boundary of Portland, and the same shall be incorporated with, and a part of the city of Louisville.

§ 2. That the title of all the public property in Portland, in which the town has a legal or equitable title, shall be vested in the mayor and council of the city of Louisville; and the said city may maintain any appropriate action at law or chancery to recover the same; and the boundary, so to be annexed to and incorporated with the city of Louisville, when this act shall take effect, shall be attached to the eighth ward, or the general council may establish an additional ward.

Approved January 9, 1852.

CHAPTER 492.

AN ACT to provide for compensation to extra Clerks.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the auditor of this state to issue his warrant or warrants for amounts sufficient to pay to the additional clerks employed by the clerks of the house and of the senate, for their services; all persons, so employed, first having presented their accounts, certified as correct by either the clerk of the house or of the senate.

§ 2. The clerks, in making such allowances, are directed not to allow greater sums for such services than are allowed to clerks of circuit courts for copies.

Approved January 9, 1852.

CHAPTER 493.

AN ACT to establish a Tobacco Inspection at Paducah.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That inspections of leaf tobacco, in hogsheads, may be established in the town of Paducah;

Inspection established at Paducah.

1852.

Warehouses.

and warehouses for the inspection, storage, and sale of tobacco shall be built of brick or stone, or of scantling, inclosed with strong planks well nailed on, or of logs so close as to keep safely and prevent injury from the weather to articles stored therein, with a good tight roof, and proper fastenings to the doors and windows; the house shall be so constructed as to keep safely and secure, and guard against fire and weather, as far as practicable, all tobacco stored therein; and such houses shall at all times be kept in good repair and condition for receiving, storing, inspecting, selling, and delivering tobacco in hogsheads; such warehouses shall be hereafter established in the town of Paducah, with the consent of the chairman and board of trustees of the town of Paducah.

Tobacco to be stored therein.

Scales; bands.

Books to be kept

§ 2. Such warehouses shall be used for storing, &c., of tobacco, as aforesaid, and shall be kept open and in a proper condition, with the necessary conveniences to receive, inspect, sell, and deliver hogsheads of tobacco; the proprietors of each tobacco warehouse, within said town, shall provide and constantly keep in the same, in good order, scales of sufficient size and strength to weigh, with convenient standard weights, at least one ton weight, which shall be tested at least once in every year, and oftener if required, by the standard of weights and measures; and shall provide one or more coopers and able bodied men to do the coopering and handle the tobacco stored, inspected, and sold in such warehouse; and to do all things needful in receiving, storing, inspecting, selling, coopering, and delivering hogsheads of tobacco; shall likewise provide and keep in each warehouse a well bound book, of proper size, to be entered therein the marks, number, gross, tare, and net weight, and when received, when inspected, when sold, and when delivered; the owner's or planter's name, the name of the purchaser, the price and fees of each hogshead of tobacco inspected and sold at such warehouse; to make out bills for the planter, and weigh and mark each hogshead of tobacco; and to collect, if required to do so, the money arising from the sales, for the planter, and pay the same over to him.

Inspectors not to buy or sell tobacco; responsibility of owner.

§ 3. No inspector shall, directly or indirectly, for himself or any other person, be engaged in buying or selling tobacco at any warehouse of which he is inspector. Each proprietor of every tobacco warehouse within said town, shall be liable for the good conduct of his servants, and for the safe keeping and delivery of tobacco stored in such warehouse, except in case of fire or unavoidable casualties; and shall deliver all tobacco to the owner on the sidewalk, within reasonable time after demand at the warehouse, and presentation of the receipt therefor to one of the proprietors of the house, or his clerk, and tender of the fees due the warehouse upon such tobacco.

§ 4. No fire shall be made in any tobacco warehouse, in said town, except in the clerk's office or business rooms, and care shall be taken that the fire place or stove and pipe shall be arranged to guard against fire.

§ 5. That each proprietor shall enter into bond, with good security, to be approved by the chairman and board of trustees of said town, payable to the commonwealth of Kentucky, in the penal sum of two thousand dollars, well and truly to do, perform, and comply with all the provisions of this act; and the injured party, if any, may sue thereon and recover, as in other cases; and any such proprietor shall also pay a fine not exceeding one hundred dollars unto the commonwealth, to be recovered by warrant before the police judge of Paducah, for any failure, refusal, or neglect of the duties herein required.

§ 6. That in the month of January, 1852, and every two years thereafter, the chairman and board of trustees of said town shall elect three competent citizens and residents of Kentucky, having due regard to the recommendation of the owners of the houses, inspectors of leaf tobacco for the town of Paducah, who shall hold their offices for two years, or until their successors are elected and qualified; they may be removed from office at any time by the chairman and board of trustees, for good cause; and inability to act, or removal from the county, shall be a just cause of removal; and the chairman and board of trustees may fill any vacancy in said office, from any cause. No inspector of tobacco shall be, directly or indirectly, interested in any tobacco warehouse within said town, nor shall he in any manner be concerned or interested in purchasing or selling of leaf tobacco by the hogshead, or loose in the hand, during their continuance in office; any such act shall be cause of removal from office, and the inspectors shall, from 8 o'clock A. M. to 5 o'clock P. M., of each day, attend to the inspection of tobacco, when called upon to do so; and shall, in the month of January in each year, render to the chairman and board of trustees of Paducah a true account, in writing, of the number of hogsheads of tobacco inspected by them the previous year, at each warehouse; they shall likewise, in their annual report, state the condition of each warehouse within the town, the quantity each is capable of holding, and make such suggestions as they may think will promote the inspection and sale of leaf tobacco in said town.

§ 7. That said inspectors shall superintend the weighing of each hogshead of tobacco, after they have inspected it, and the weighing of the empty hogshead, and to see that the proper weight, gross, tare, and net is marked on one of the heads of the same; they shall cause each hogshead of tobacco to be uncased and broke in different places, not exceeding three, and take from each hogshead samples;

1852.

No fire to be permitted in the warehouse.

Proprietor to be execute bond.

Election of inspectors.

Term of office.

Vacancy--how filled.

Not to trade in tobacco.

Annual report.

Inspectors' duties.

1852.

they may make a more extensive examination by breaking the tobacco oftener, if deemed necessary, to test its quality. If two inspectors shall agree that any hogshead of tobacco inspected by them is good, sound, well conditioned, merchantable, and clear of trash, they shall mark it "passed;" if they consider it not of such quality, they shall mark it "refused;" and each hogshead inspected by them shall be marked on one of the heads "passed" or "refused," as the case may be, and shall be so designated in the note to be issued for the same. Each inspector shall receive twenty cents for each hogshead inspected by him, to be paid by the owner or agent.

Fees.

§ 8. The fees to be collected by the proprietors or owner of each warehouse shall be as follows: one dollar and fifteen cents for receiving, weighing, cooopering, working, and making out bills of sales, &c.; fifty cents storage, and sixty cents for inspection, payable to the inspectors; of this amount the planter or owner shall pay one dollar, and the purchaser or holder of the note, payable upon the execution and delivery of said note by the proprietor, one dollar and twenty-five cents.

Form of receipt.

§ 9. The following shall be the form of the note, to be signed by said three inspectors, for each hogshead of tobacco inspected by them:

PADUCAH, KY., ——— WAREHOUSE.

Inspected on the day of , 18 , for
one hogshead of leaf tobacco, marked No., gross ,
tare , net , which we have passed (or refused, as
the case may be.)

The note to be printed, and under the names of the inspectors shall be the following receipt, also printed, and to be signed by the proprietor of the warehouse, or by some authorized person for him:

Receive of ———, the above hogshead of tobacco, to be delivered to him or his assigns, when demanded at my (or our) warehouse in Paducah, upon the presentation of this note, and receipt and payment of warehouse fees.
day 18 .

Which note, and property in the tobacco described therein, shall pass by the possession of said note.

Further duties
of inspectors.

§ 10. The inspectors shall see that the proper entries are made upon the note book to be kept as herein provided, and that hogsheads of tobacco are properly stored and taken care of; and shall, before they enter upon the duties of their office, take an oath before a justice of the peace for McCracken county, well, and truly, and faithfully, without partiality, discharge the duties of the office of tobacco inspector of Paducah, as herein directed. A certificate of said oath shall be filed with the clerk of the board of trustees of Paducah. Each inspector shall likewise, before he enters upon the duties of said office, enter into bond, with

Inspectors to
execute bonds.

1852.

good security, to be approved by the chairman and board of trustees of Paducah, payable to the commonwealth of Kentucky, in the penal sum of two thousand dollars, conditioned for the true and faithful performance of his duty, according to the provisions of this act; which bond may be sued upon and recovery had, as in other cases; and each inspector shall be subject to a fine not exceeding one hundred dollars, to be recovered by warrant before the police judge of Paducah, at the instance of any person aggrieved, in the name of the commonwealth, for a failure, refusal, or neglect of any of the duties or obligations required by law.

§ 10. No planter or owner of tobacco shall be compelled to take it to any warehouse in said town, or have the same inspected or sold at auction, or otherwise; and, if sold at auction in either of said warehouses, may refuse to take the price at which the same was cried off.

Privileges of
planters.

§ 11. No owner or proprietor of any established tobacco warehouse in Paducah shall sell, or suffer to be sold at public outcry, in said warehouse, by sample, any tobacco in hogsheads, unless said tobacco has been inspected by two of the inspectors of tobacco in said town; and, for each offense, shall be subject to a fine not exceeding one hundred dollars, to be recovered by warrant before the police judge of Paducah, at the instance of any person aggrieved, in the name of the commonwealth.

No tobacco to
be sold at auc-
tion until in-
spected.

§ 12. If any hogshead of tobacco shall remain in any warehouse twelve months, the owner or proprietor of the warehouse shall be entitled to one dollar extra storage, and at the same rate for the time it remains over one year; and should tobacco be stored in any warehouse, which remained unsold for more than a year, and should be taken away without inspection, the owners of any such tobacco shall pay the proprietor of the warehouse storage of one dollar, for the first year, and the like sum for each subsequent year the same may remain on storage. A lien is given upon all tobacco stored or sold in any established warehouse, to the proprietor of such house, for his fees, and to the inspectors for their fees.

Storage fees.

§ 13. It shall be the duty of the inspectors, when requested by the owner or purchaser of tobacco, to seal the samples, as made by them, with marks and numbers corresponding with those upon the hogshead from which it was taken, for which they shall receive a fee of five cents per sample, to be paid by the person requesting it to be done. It shall be the duty of the inspectors to sell the tobacco at public outcry, if so desired by the owner or planter, at the regular established tobacco warehouses in said town, free of charge.

Samples may
be sealed and
numbered.

§ 14. That all acts or parts of acts coming in conflict with this act, are hereby repealed.

Approved January 9, 1852.

1852.

CHAPTER 494.

AN ACT to change the boundary line of Justices' District No. 8, in Daviess county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the southern boundary line of justices' district No. 8, in Daviess county, be and the same is hereby so extended as to run as follows: beginning on the Harmon's ferry road, where the Ashleyburg road to Owensboro' leaves it; thence up said Harmon's ferry road, so as to include the new house lately built by Rebecca Wall; and thence on a straight line, so as to intersect the Ashleyburg road near old Mount Liberty meeting house.

Approved January 9, 1852.

CHAPTER 495.

AN ACT authorizing the Judge of the Pendleton county court to alter or change any Election or Justices' District or place of voting in said county.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the judge of the Pendleton county court be and is hereby authorized to alter or change any election and justices' district, and place of voting in said county, a majority of all the legal voters in said district or boundary petitioning the said judge for such alteration or change.

§ 2. That if any justice of the peace or constable be struck off to any other district from that in which he was elected, such alteration or change shall not go into effect until such officer or officers' term of office shall expire, either by death, resignation, or otherwise; and no such alteration or change shall be made within less time than sixty days previous to any election; and, furthermore, no such alteration or change shall be made oftener than once in two years from and after the first Monday in April, 1852, when the first change may be made, agreeably to the first section of this act.

Approved January 9, 1852.

CHAPTER 496.

AN ACT to incorporate Daniel Boone Division, No. 35, Sons of Temperance.

Corporators.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That N. N. Bryant, F. M. Robinson, and James G. Perry, trustees of Daniel Boone division, No. 35, sons of temperance, and their successors in office, be and they are hereby incorporated, under the name and style of the trustees of Daniel Boone division, No. 35, sons of temperance, in Franklinton, Henry county; and by such

Corporate name
and powers.

name, shall have full power to sue and be sued, plead and be impleaded, contract and be contracted with; and, in such name, may receive, purchase, acquire, and hold, or sell, transfer, and convey any estate, real, personal, or mixed, for the use and benefit of said division, not exceeding in value the sum of ten thousand dollars.

§ 2. That said corporation shall have full power to enact any rules, regulations, and by-laws for the government of said division, for the periodical election or appointment of its trustees and other officers, and for the management of the fiscal and prudential concerns of said division, it may deem necessary and expedient: *Provided*, the same be not in contravention of the laws of the United States or of this commonwealth.

1852.

May make by-laws.

Approved January 9, 1852

CHAPTER 497.

AN ACT to amend the charter of the Winchester and Paris Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Winchester and Paris turnpike company be and they are hereby authorized to establish a toll gate within three-quarters of a mile of the town of Winchester.

Approved January 9, 1852.

CHAPTER 498.

AN ACT to incorporate the Covington Library Association, and to amend an act, approved December, 1830, incorporating the Madison Library Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That J. T. Morehead, W. D. Holt, C. A. Withers, John D. McGill, B. W. Foley, B. Young, C. W. Clayton, J. E. Spilman, R. Apperson, jr., Daniel Moorar, James Southgate, R. Hutcheson, W. B. Kinkead, Edward B. Bartlett, and Robert Richardson, with their associates and successors, shall be and are hereby created a body politic and corporate, under the name of the Covington library association, and, by that name, shall have perpetual succession and corporate existence, with full power to contract and be contracted with, sue and be sued, in the several courts of this commonwealth; to ordain and put in execution such by-laws, rules, and regulations for the government of said library association, and the prudent and efficient management of its affairs, as may be deemed expedient and proper, and to have a corporate seal, and alter or renew the same at pleasure.

Corporators

Corporate name and powers.

§ 2. That all the affairs of the said association, of a fis-

1853. Election of president and directors. Term of office.	cal or prudential character, shall be under the control of a president and six directors, to constitute one board, who shall each be elected annually by the qualified members of the association, to continue in office for the period of one year, and until their successors shall be duly elected and qualified. The board shall hold their regular meetings at least once in three months, or at such times as the president, or in his absence, any four directors may call: <i>Provided</i> , due notice be given of the time and place of such meeting.
Meetings.	§ 3. That the president shall be the chief executive officer of the association; and it shall be his duty to take care that the by-laws, rules, and regulations of the same be duly executed and enforced; to preside at all the deliberations of the board, sign the journal of their proceedings, and all orders, bonds, contracts, and conveyances in behalf of said institution. In the event of his temporary absence, the directors, any four of whom shall constitute a quorum to do business, may choose a president, <i>pro tempore</i> ; but all vacancies which may occur in the office of president, or any of the directors, by reason of death, resignation, or removal, shall be filled by the election of a new incumbent for the unexpired period for which such officer had been chosen.
Duties, &c., of president.	§ 4. That the qualifications for regular and honorary membership of the said association, and the mode by which its internal affairs are to be conducted, shall be such as may be prescribed by its by-laws, which shall be ordained to accomplish the objects contemplated in its formation, and in no wise repugnant to the constitution and laws of this state or of the United States.
Vacancies— how filled.	§ 5. That it shall be the duty of the president, directors, and members of this institution to keep their library, reading room, and lecture room or rooms, and offices, in the city of Covington; and they may unite in connection therewith, such philosophical apparatus, engravings, maps, charts, lithographs, and specimens of nature and the fine arts, as they may choose; and, for these purposes, may acquire, by purchase or otherwise, real and personal estate to the amount of twenty thousand dollars, which capital stock may be increased, from time to time, as the president, directors, and members may deem proper. It shall likewise be the duty of the officers of the institution to keep a record of all donations, by gift, grant, or otherwise, that may be made to it, and faithfully apply the same in accordance with the intentions of the donors.
Library.	§ 6. That the president and directors shall keep a journal of the proceedings of the association, and may employ a treasurer, librarian, secretary, and such other officers and agents as the interests of the institution may require, upon such compensation as may be fixed by them, and may re-
May hold real estate, &c.	
Record of do- nations.	
Directors to appoint other of- ficers.	

quire bond and security of the persons so employed, or any of them, for the faithful performance of their respective duties.

1852.

§ 7. That this charter may be modified, annulled, or repealed, whenever the general assembly may deem it necessary: *Provided*, that thereby no vested right be in any manner impaired.

§ 8. That the directors of the Madison library company shall have power to levy an annual tax upon the shareholders of said company, of not less than fifty cents nor more than two dollars; and to allow to annual subscribers all the privileges of the regular shareholders, upon such terms, and with such conditions as the said directors may deem just and proper.

§ 9. That said directors shall have full power to purchase, out of the funds of the Madison library company, any books, engraving, painting, or work of art, the product of American genius and industry, and distribute annually the same on the first day of November, by lot, among the shareholders and annual subscribers to said company.

Approved January 9, 1852.

CHAPTER 499.

AN ACT to incorporate the Paducah Farmers' Tobacco Warehouse Company.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company shall be and the same is hereby established, to be called the Paducah farmers' tobacco warehouse company, the subscribers to which, their successors, assigns, and associates, shall be and are hereby made a body politic and corporate, for the term of thirty years from the passage of this act; and, under that name, they may contract and be contracted with, and may have, purchase, lease, enjoy, and hold to themselves and their successors, lands, tenements, goods, and securities, as may be necessary for the carrying on said warehouse, and to sell, assign, and dispose of the same at pleasure; and should there, at any time, be any apartments in said warehouse required for the reception, inspection, and storage of tobacco, they may use the same for the storage of any other articles, or may use the same for that purpose; and they may sue and be sued, plead and be impleaded, defend and be defended, in courts of record and elsewhere; and make and use a common seal, and break, alter, and renew the same at pleasure; and, also, establish by-laws and regulations for the government of said company, not contrary to the laws of this commonwealth and this act.

Company created.
Corporate name and powers.

§ 2. The capital stock shall not exceed thirty thousand dollars, to be divided into shares of fifty dollars each.

Capital stock.

1852. Commissioners.	<p>§ 3. David Watts, Wm. F. Norton, A. C. Rodgers, Wm. Smedley, H. S. Lewis, R. S. Ratcliffe, T. H. Glenn, and James B. Husbands, or any three of them, are appointed commissioners for receiving subscriptions for stock, and shall cause books to be opened for the same.</p>
Organization.	<p>§ 4. As soon as three thousand dollars shall be subscribed and paid in, this act shall go into effect; and the commissioners shall call a meeting of the stockholders, who shall, by ballot, select a president and three directors, to continue</p>
Term of office.	<p>in office until the second Monday in January, 1854. There shall be an annual meeting of the stockholders on the first Monday in January, in each year thereafter, to select a president and three directors, their term to commence on the second Monday; and at such annual meetings, a statement shall be exhibited of the affairs of the corporation, and such dividends made arising from their fees, profits, &c., as shall be deemed advisable by a majority of said president and directors.</p>
May enact by-laws.	<p>§ 5. The president and directors, or a majority of the board, may, from time to time, make such by-laws and rules for the government of the corporation, as to them shall seem expedient, not inconsistent with the laws of the commonwealth and with this act; and they shall appoint such subordinate officers and agents as may be necessary and proper for the executing of the business of the corporation.</p>
Directors may appoint other officers.	<p>§ 6. The form of certificates of stock, and mode of transfer, shall be regulated by the by-laws of the corporation; and a lien is hereby created, in favor of the corporation, on the stock belonging to each individual shareholder, for all debts due or owing by him to the corporation, by subscription or otherwise; and no stock shall be transferred by any shareholder until he shall have first paid, or otherwise secured all such debts to the satisfaction of the president and directors.</p>
Vacancy; how filled.	<p>§ 7. In case of the death or resignation of the president or any director, the board shall elect a successor, to continue in office until the vacancy is filled at the next annual meeting of the stockholders.</p>

Approved January 9, 1852.

CHAPTER 500.

AN ACT to incorporate the Turkey Foot Turnpike Road Company

Corporate name and objects.	<p>§ 1. <i>Be it enacted by the General Assembly of the Commonwealth of Kentucky,</i> That a company be incorporated, under the name of the Turkey Foot turnpike road company, for the purpose of forming and constructing an artificial road from a point near the second toll gate on the Lexington and Covington turnpike road, thence with or near the</p>
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Turkey Foot road, in Kenton county, to the residence of Zachary Herndon, on said Turkey Foot road.

§ 2. The capital stock of said company shall be fifty thousand dollars, to be divided into shares of fifty dollars each.

§ 3. Books for the subscription of stock in said company shall be opened at such time and place; and kept open for such length of time as the commissioners, or a majority of them, hereinafter named, may deem advisable.

§ 4. The books for the subscription of stock in said company shall be opened under the direction of T. Elliott, John Sweetman, Caleb Rice, Reuben L. Bristow, Lewis Collins, and Waller S. Herndon, as commissioners, a majority of whom may act, and do all things that the whole number might do,

§ 5. So soon as five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners, or such of them as may act, to give notice of a meeting of the stockholders, to be held at such time and place as they may name, for the purpose of electing officers, to be posted up at three or more public places in Kenton county, and to be published in one or more of the newspapers published in the city of Covington for at least three weeks; at which election, a majority of said commissioners shall be present, who shall proceed to take the votes of the stockholders, by ballot, who shall vote in person or by proxy, each stockholder having one vote for each share of stock he may hold, for a president and four directors, who shall hold their offices for one year, and until their successors are elected and qualified.

§ 6. That upon the election and qualification of the president and directors, as aforesaid, the said company shall be a body politic and corporate, by the name of the Turkey Foot turnpike road company, and, by that name, shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their capital stock, and the increase and profits thereof; of purchasing, taking, and holding to them and their successors and assigns, and of selling, transferring, and conveying in fee simple, all such lands, tenements, and hereditaments, and estate, real and personal, as shall be deemed necessary to them in the prosecution of their work; and to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts or elsewhere; also, to have a common seal, and do all and every other matter and thing which a body politic and corporate may do.

§ 7. The said president and directors shall employ such surveyors, engineers, artists, agents and chain carriers as they may think necessary; and they are hereby authorized to enter in and upon the land, inclosures, and public roads through

1852.

Capital stock.

Opening of books.

Commissioners.

Organisation of company.

Corporate name

Corporate powers.

May employ agents.

1852.

May examine
beds of gravel,
stone, &c.

and over which the said intended road may be thought proper to pass, and to examine the quarries, beds of stone and gravel, and other materials necessary for the completion of said road; and they may locate said road on the line or route on which it shall be to the interest of said company and the community to construct the same, in the opinion of said president and directors.

When work to
be commenced.

§ 8. So soon as the location of said road shall have been made, the said president and directors shall commence the construction of said road at any point or at as many points as they shall elect, and they shall cause the said road to be opened not less than twenty-five feet nor more than forty feet wide, of which not less than fifteen feet shall be made an artificial road of stone or gravel, well compacted and put together in a proper and suitable manner, so that the same shall measure in the centre at least ten inches, gradually tapered to seven inches at least at each edge; or if said president and directors may elect to make said road, or any part thereof, out of plank or wood, instead of stone or gravel, they may do so; but in case they may so elect, the plank or track of said road shall not be less than ten feet in width.

Width of road.

Description of
road.

Additional
powers.

§ 9. Such parts of an act, entitled, an act to incorporate the Bank Lick turnpike road company, approved February 6, 1839, as are not inconsistent with this act, shall be and the same are hereby made part of this act, and shall have the same force and effect as if they were here recited at length.

Approved January 9, 1852.

CHAPTER 502.

AN ACT declaring Robinson's Creek a navigable stream.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Robinson's creek, in Taylor county, be and the same is hereby declared a navigable stream from its mouth, emptying into Green river, as high up as Johnson and Deering's mill.

Approved January 9, 1852.

CHAPTER 503.

AN ACT to change a road in Simpson county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the road running from Adairsville to Bowlinggreen, be so changed as to commence at the mouth or end of the lane between the widow Shiplett's and David Stahl, running by Thomas Lockhart's and intersecting the Russellville road between Robert S. Turner and John Lockhart's.

Approved January 9, 1852.

LAWS OF KENTUCKY.

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CHAPTER 504.

1852.

AN ACT for the benefit of the late Sheriffs of Taylor and Oldham counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That William Marshall, late sheriff of Taylor county, and William C. Price, late sheriff of Oldham county, be each allowed until the first day of January, 1853, to collect their taxes and fee bills.

Approved January 9, 1852.

CHAPTER 505.

AN ACT for the benefit of the Sheriffs of Owen and Bracken counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sheriff of the county of Owen be and he is hereby allowed the further time until the first day of March next to pay the revenue of said county into the treasury, and to return his delinquent list: *Provided,* that the sureties of said sheriff do signify their assent to such indulgence, in writing, in the clerk's office of said county. That the provisions of this act shall apply to the sheriff of Bracken county.

Approved January 9, 1852.

CHAPTER 506.

AN ACT for the benefit of the Maysville and Mountsterling Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the president and directors of the Maysville and Mountsterling turnpike road company be and the same are hereby authorized to erect a toll gate on said road leading from Flemingsburg to Sherburne Mills, within three-quarters of a mile of the court house in the town of Flemingsburg, subject to the same rates, regulations, and exemptions now in force in regard to the gates already erected between Flemingsburg and Maysville: *Provided, however,* that no tolls shall be demanded or exacted from any person or persons living on the old Hillis mill road, between Fleming creek and the junction of said Hillis mill road with the turnpike aforesaid, or from any other persons whose natural travel brings them on said turnpike at the junction aforesaid.

Approved January 9, 1852.

1852.

CHAPTER 507.

AN ACT concerning the road and bridge fund of Whitley county.

Power of county court over fund abolished, and vested in 3 commissioners.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all power, authority, and jurisdiction heretofore granted, either by general law or special statutes, to the county court of Whitley county, over the road and bridge funds of said county, be and the same are hereby abolished; and that, hereafter, the same is and shall be vested in three commissioners, to-wit: William T. Meadows, H. H. Moss, and Robert Finley, who, or any two of whom, may appropriate the same upon the construction and repair of such roads and bridges in said county as may be necessary, and to them seem just and right.

Vacancy—how filled.

§ 2. That upon the death, resignation, or refusal of either of said commissioners to act, the remaining ones shall appoint a person to fill the vacancy occasioned thereby.

Treasurer; to execute bond.

§ 3. That said commissioners shall appoint a treasurer for said county, for said funds, in whose hands the same shall be placed, who shall first execute bonds, with good security, in an adequate penalty, for the faithful discharge of the duties of his office, and who shall render, semi-annually, to said commissioners, a just account of all funds which may have come to his hands, and of all disbursements made of the same, by an order of said commissioners, or otherwise; said treasurer to receive fair compensation for his services out of said fund, to be allowed by the commissioners.

To report.

His compensation.

Annual meeting.

§ 4. That said commissioners shall meet once in each year, in the town of Williamsburg, (to-wit: on the first Monday in April of each year,) to receive the reports of the treasurer, and to pass upon all applications which may be made to them for expenditures or appropriations, and all matters of grievance, or other things concerning their said duties; and shall receive one dollar, each, per diem, compensation for attendance on said duties as commissioners aforesaid, to be paid out of the road and bridge fund of said county.

Commissioners' pay.

§ 5. This act to take effect from and after the first day of March, 1852.

Approved January 9, 1852.

RESOLUTIONS.

No. 1.

RESOLUTION in relation to the death of Colonel E. H. Field.

Resolved by the General Assembly of the Commonwealth of Kentucky, That by the decease of Col. Ezekiel H. Field, senator elect from the eleventh district, the commonwealth has lost one of her most gallant and useful citizens.

Resolved, That as a mark of respect for his memory the members of the legislature wear the usual badge of mourning for thirty days.

Resolved, That the speaker of the senate do transmit to the widow of Col. Field a copy of these resolutions, expressing to her the deep regret the legislature feel at her bereavement, and the loss sustained by the commonwealth by the death of her husband.

Resolved, As a further mark of respect to the memory of Col. Field, that the senate do now adjourn.

Approved November 14, 1851.

No. 2.

RESOLUTION requesting the Superintendent of Public Instruction to make a partial report.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the superintendent of public instruction be requested to prepare and submit to the general assembly, at as early a day as possible, his annual report upon all matters connected with the duties of his office and the cause of education in Kentucky, except those portions thereof which may be based upon the annual reports made to him by the commissioners of common schools in the several counties.

Approved November 18, 1851.

No. 3.

RESOLUTION appointing a joint committee to visit the Deaf and Dumb Asylum, at Danville.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a joint committee of three from the senate and five from the house of representatives be appointed to visit, examine into, and report the condition of the deaf and dumb asylum, at Danville.

Approved November 18, 1851.

RESOLUTIONS.

1852.

No. 4.

RESOLUTION appointing a joint committee to visit the Lunatic Asylum at Lexington.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of three on the part of the senate and five on the part of the house of representatives be appointed to visit and examine into the condition of the lunatic asylum, at Lexington, and make report thereof.

Approved November 18, 1851.

No. 5.

RESOLUTION appointing a joint committee to visit the Institution for the Blind, at Louisville.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of three on the part of the senate and five on the part of the house of representatives be appointed to visit and examine into the condition of the institution for the education of the blind, at Louisville, and report thereon.

Approved November 18, 1851.

No. 6.

A RESOLUTION for the benefit of the Louisville and Frankfort Railroad Company.

WHEREAS, the fifty-second section of the charter of the Louisville and Frankfort railroad company provides that said company shall execute and deliver to the governor a bond, binding said company to pay into the treasury, for the use and benefit of the sinking fund, interest at the rate of six per centum per annum on the amount of valuation of the improvements made by the Lexington and Ohio railroad company, between Frankfort and Louisville, and the said Louisville and Frankfort railroad company having executed bond, as above, for the sum of \$76,420 25 cents; and whereas, by the first section of an act amending said charter, approved 29th of February, 1848, it is provided that where such improvements be made upon lands to which said Lexington and Ohio railroad company had not acquired the right of way, and if the damages assessed shall exceed or be equal to the value of the improvements, then said Louisville and Frankfort railroad company shall not be charged with such improvements, and if the damages agreed upon or assessed be less than the improvements, then the excess only shall be charged to the company, and included in their bond; and whereas, it appears to the satisfaction of this general assembly that certain improvements were made by said Lexington and Ohio railroad

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company upon land to which said company had not acquired the right of way, and that those improvements were of greater value than the cost of the right of way, as assessed, and that credits have not heretofore been given to said Louisville and Frankfort railroad company for the cost of such right of way, by them acquired, and as the said bond of said company contains a clause reserving to said company such credits as the said amended charter would authorize. Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That the board of commissioners of the sinking fund be and they are hereby authorized to enter such credit upon the bond of the Louisville and Frankfort railroad company, herein described, as they may think said company legally and equitably entitled to in the premises.

Approved December 13, 1851.

No. 7.

RESOLUTION adding Thomas J. Smith to the joint committee on Banks.

Resolved by the General Assembly of the Commonwealth of Kentucky, That Thomas J. Smith, the senator from Warren, and Samuel Hatfield, the member from Simpson, be added to the joint committee on banks.

Approved December 13, 1851.

No. 8.

RESOLUTION in relation to the Revised Statutes.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the committee on the judiciary in the senate, and the committee on the revised statutes in the house of representatives, act as a joint committee on the revised statutes. That they revise the chapters of the revised statutes, adopted at the last session, and report whether any modifications of the same are expedient; and that they report, from time to time, as they progress with the work this day laid before the two houses by the revisers.

Resolved, That the Hon. C. A. Wickliffe, Hon. S. S. Nicholas, and Hon. Squire Turner be requested to attend the sittings of the joint committee, and give them such explanations and aid in examining the work as may be necessary.

Approved December 13, 1851.

RESOLUTIONS.

1852.

No. 9.

RESOLUTION fixing a day for the election of the Public Officers.

Resolved by the General Assembly of the Commonwealth of Kentucky, That they will, on Tuesday, the 9th inst., proceed, by a joint vote of the two houses, to the election of the public officers of this state.

Approved December 20, 1851.

No. 10.

RESOLUTION respecting salutes on the 8th of January and 22nd of February.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the governor be requested to order a salute of thirty-one guns to be fired on the 8th day of January next, in honor of the victory achieved by the American army under Major General Andrew Jackson, against the British, under General Packenham, on the 8th of January, 1815; also, the same number of guns to be fired on the 22nd day of February next, in honor of the birth-day of General Washington, and of the victory gained by the American forces under General Taylor, at Buena Vista, in which the Kentucky troops bore a conspicuous and efficient part, and won for themselves and their country unfading laurels.

Approved January 7, 1852.

No. 11.

RESOLUTION relative to inspections of Pork, Flour, and Tobacco, in New Orleans.

WHEREAS, it is represented that it is contemplated by the legislature of the state of Louisiana to abolish the voluntary system of inspection of pork, flour, and tobacco, in the city of New Orleans, and such a step would result in serious loss and great inconvenience to the producers of those articles in the state of Kentucky. Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That the legislature of the state of Louisiana be and is hereby earnestly and respectfully requested to allow the voluntary system of inspection to remain as it now is.

Resolved, That the governor of this commonwealth be requested to forward a copy of this preamble and resolutions to the governor of Louisiana, with a request that he will lay them before the legislature of that state.

Approved January 7, 1852.

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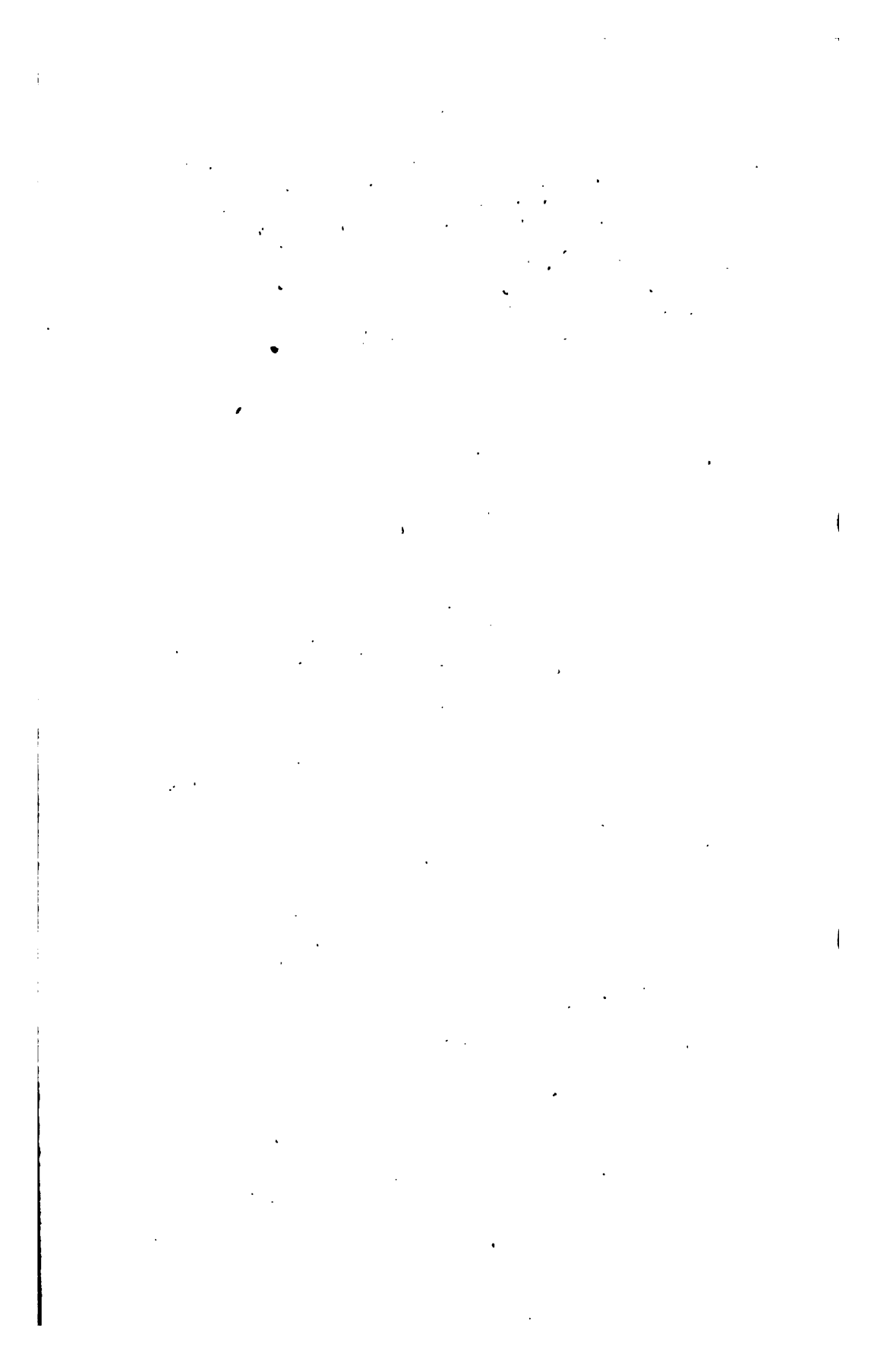
No. 12.

1852.

Resolution authorizing the Clerks of the Senate and House of Representatives to employ assistants.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the clerks of the senate and house of representatives be and they are hereby authorized to employ a sufficient number of assistants to enroll the bills passed by the present legislature.

Approved January 7, 1852.



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